Calendar No. 119

98TH CONGRESS *1st Session*	SENATE	REPORT No. 98-71

UNIFORM RELOCATION ACT AMENDMENTS OF 1983

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 531

TO AMEND THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

TOGETHER WITH

ADDITIONAL VIEWS

MAY 5 (legislative day, MAY 2), 1983.—Ordered to be printed

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Mr. DURENBERGER, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 531]

The Committee on Governmental Affairs to which was referred the bill (S. 531) to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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I. PURPOSE

The Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1983 is a comprehensive statutory revision of the Uniform Relocation Act of 1970. It is the first such revision since URA was enacted. This legislation corrects a number of problems experience in the administration of the act. It substantially broadens the coverage of the act, raises assistance levels across the board, improves State and local discretion, and incorporates a broad range of management-oriented reforms designed to reduce or eliminate windfall payments, abuses, program duplication.

S. 531 was developed jointly by the Subcommittee on Intergovernmental Relations and the Intergovernmental Affairs Division of the Office of Management and Budget in full and open consultation with key Federal agencies, State and local governments, professional organizations whose members implement the act on a daily basis, and organizations representing the interests of displaced tenants. As a result, the legislation enjoys broad, bipartisan support. The bill, as amended, was approved by the committee by a vote of 10 yeas and 0 nays.

II. BACKGROUND

The Uniform Relocation Assistance Act of 1970 was enacted to consolidate the diverse relocation assistance requirements found in the regulations and authorizing statutes of 20 Federal agencies, bureaus, and departments. The act is one of approximately 60 cross-cutting mandates that serve as generally applicable conditions of Federal financial assistance. It establishes basic acquisition procedures, as well as a variety of entitlements for persons displaced in the course of Federal or federally assisted programs or projects, all of which are financed as part of the cost of the displacing program or project. Major categories of assistance under current law include: (1) actual or estimated moving expenses; (2) a payment of up to $15,000 to homeowners toward the increased costs, it any, of purchasing and financing a comparable replacement dwelling; (3) a payment of up to $4,000 to residential tenants toward any increased rental cost incurred during the tenant's first 4 years at a replacement dwelling; and (4) advisory assistance, under which displacing agencies must provide assurance that, within a reasonable time prior to displacement, there will be replacement housing available which is within the displaced person's means to afford, and which meets certain Federal housing standards. This assurance must be met in order for a project to proceed.

Accordingly, the act has a twofold purpose. First, it embodies the principle that no person should be made to bear an unfair share of the cost of Federal or federally assisted programs or projects. The intent, rooted in the fifth amendment of the Constitution, is that whenever Government intrudes upon the property rights of American citizens, it assumes a collateral responsibility to take reasonable steps to restore the person to his or her former level of wellbeing. In a second respect, however, the act brings about an improvement of the housing conditions of persons displaced from substandard housing by entitling such persons to "comparable" or other replacement housing which meets Federal housing standards. Here, the intent is for the act to implement national housing policy.

1. STATE AND LOCAL PARTICIPATION

The Uniform Relocation Act was enacted in response to dramatic rise in the number of persons displaced by Federal or federally assisted programs and projects, occasioned principally by the rapid expansion of the Federal highway and urban renewal programs during the late sixties. These and other grant-in-aid programs administered by the Department of Transportation and the Department of Housing and Urban Development have historically accounted for 90 to 95 percent of all federally funded displacing activities. Consequently, and act is carried out primarily by State and local governments as a condition of Federal assistance.

DISPLACEMENT UNDER HUD AND DOT PROGRAMS, FISCAL YEAR 1980

	HUD	DOT	Combined
Households	[1] 16,000	4,064	20,604
Businesses	2,400	2,010	4,410
Nonprofit organizations	([2])	77	77
Farms	0	131	131
Total	18,400	6,282	24,682

[1] Includes 3,000 displacements by activities not covered under URA (e.g., rehabilitation, demolition, etc.)
[2] Included in total of displaced businesses.

Source: Department of Housing and Urban Development, and Department of Transportation.

Combined displacement under HUD and DOT programs declined from a pre-Uniform Act total of 69,045 displaced households, businesses, farms, and nonprofit organizations, at a relocation cost of $115 million in fiscal year 1970, to 24,682 displacements, at a cost of $137 million in fiscal year 1980 (the last year for which such information is available). This decline resulted primarily from the substantial completion of the Interstate Highway System, and a turning away from large-scale slum clearance projects under urban renewal. In addition, the cost of relocation assistance required under the act has forced housing program administrators to design programs in ways that minimize displacement.

However, recent congressional interest in programs to rebuild the Nation's infrastructure presages a significant reversal of such trends. The 97th Congress saw large increases in funding for highway construction and airport development programs. Meanwhile, additional funding for public works programs—which are also likely to be implemented by state and local governments—is expected in the 98th Congress. These programs will result in a significant increase in the number of federally funded displacement actions; the Federal Highway Administration, for example, estimates that its relocation activities will increase 82 percent over 1982 levels by 1985. The committee, therefore, believes that the time is ripe for the reforms embodied in S. 531, as amended.

Because of the primary involvement of State and local administrators in the implementation of the Uniform Act, such officials have led the way in proposing the many long-overdue changes sought in S. 531. These administrators have pointed out that many of the added relocation costs are unnecessry, and are the result of burdensome and inefficient procedures mandated in the act. Specific problems cited include:

The act fails to provide a single set of uniform Federal regulations. As a result, State and local agencies must simultaneously follow several sets of Federal regulations in implementing the act, often at considerable administrative expense.

Federal regulations are much too detailed. They do not allow sufficient flexibility for State and local administrators to accommodate the unique circumstances of individuals and communities in providing relocation assistance. Such requirements often result in inappropriate program and administrative expenditures.

Differing Federal agency interpretations of the act's benefit provisions result in persons in essentially similar circumstances receiving dissimilar levels of assistance. Such dissimilarities have led to litigation and project delays.

Businesses enjoy substantially fewer benefits under the act than do homeowners and tenants of residential property. Many small businesses fail as a result of costs imposed by displacement under Federal or federally assisted programs or projects. Inadequate relocation assistance often results in litigation and project delays.

Benefit computation formulas and entitlement definitions regularly result in windfall payments to some displaced persons, while persons displaced by programs activities other than acquisition are not covered by the act.

2. LEGISLATIVE HISTORY

S. 531, as amended, is in most respects identical to the bill (S. 2363) reported by the Committee on Governmental Affairs in the 97th Congress. The legislation differs from S.2363 in several respects, including: (1) a provisions is included to clarify the eligibility of utility companies for reimbursement of the costs of moving transmission lines and other facilities from public property (sections 101(E) and 202(d)); (2) a provision included to authorize the displacing agency to withhold benefits from any person who has moved into the displacement dwelling for the purpose of receiving benefits, or who is in illegal occupancy of such displacement dwelling (section 101(d)); (3) increases have been made in the benefit ceilings for payments to homeowners and tenants (sections 203 and 204); (4) a revised benefit computation formula for payments to tenants (section 203) has been incorporated; and (5) a revision has been made to the section (section 210(b)) enabling States to draft substitute implementing regulations where such States have adopted laws determined to have the same purpose and effect as the act has been made to conform its provisions to the existing certification acceptance procedures of other grant programs. The committee believes that such changes will effectively resolve any outstanding issues with respect to the earlier legislation.

S. 2363 was based on the legislative efforts of successive chairmen of the Subcommittee on Intergovernmental Relations, and the recommendations of the Office of Management and Budget, the Department of Transportation, the Department of Housing and Urban Development, together with substantial input from interest groups comprised of State and local administrators who implement the Uniform Relocation Act. These groups include the International Right-Of-Way Association, the National Association of Housing and Redevelopment Officials, and the American Association of State Highway and Transportation Officials. Other recommendations were taken from the 1979 General Accounting Office report "Changes Needed in the Uniform Act To Achieve More Uniform Treatment of Displaced Persons," and from the 1981 "Special Report 192, Relocation and Real Property Acquisition," developed by the Transportation Research Board of the National Academy of Sciences.

In 1981, the Subcommittee on Intergovernmental Relations, under the subcommittee chairman, Senator David Durenberger, developed draft legislation to comprehensively amend the Uniform Relocation Act, based in part on a previous bill (S. 1108) introduced in the 96th Congress by then-subcommittee chairman, Senator James Sasser. The draft legislation was subsequently referred to the Intergovernmental Affairs Division of the Office of Management and Budget for administration comment. Because similar legislation was being developed in the Department of Housing and Urban Development, OMB requested the opportunity to develop a consolidated set of amendments to the act, incorporating the best features of both bills. On March 13, 1982, OMB transmitted a bill, S. 2363, similar in most respects to the subcommittee's draft legislation, which Senator Duremberger introduced by request of the administration.

On July 1, 1983, the committee reported S. 2363, as amended. This legislation was subsequently passed by the unanimous consent of the Senate on August 5, 1982, and was referred to the Subcommittee on Surface Transportation, House Committee on Public Works and Transportation. However, because there were less than 2 months left in the 97th Congress in which to consider such legislation, and because major highway and coal slurry bills required the remaining time of the Surface Transportation Subcommittee, S. 2363 was not considered in the House in the 97th Congress. Accordingly, in cooperation with the Senate Subcommittee on Intergovernmental Relations, the administration submitted, on February 4, 1983, a revised version of the legislation (S. 531) for consideration in the 98th Congress.

S. 531 was introduced by Senator David Durenberger by request of the administration, and cosponsored by Senator James Sasser, and Senator Carl Levin. The committee notes that the changes which the administration has incorporated into S. 531 were a product of the same open process of consultation with affected agencies and interest groups that led to the development of S. 2363.

Because a hearing was held on S. 2363 by the Subcommittee on Intergovernmental Relations on April 22, 1982, the committee has determined that a second hearing, on S. 531, is not needed. During the hearing on S. 2363, testimony was heard from the following witnesses:

Joseph Wright, Deputy Director, Office of Management and Budget;

Stephen J. Bollinger, Assistant Secretary for Community Planning and Development, U.S. Department of Housing and Urban Development;

Charles Swinburn, Deputy Assistant Secretary for Policy and International Affairs, U.S. Department of Transportation;

James L. Martin, legislative counsel, National Governors Association;

State Senator Joseph F. Timilty from Boston, Mass., on behalf of the National Conference of State Legislatures;

John Gunther, executive director, U.S. Conference of Mayors;

W. Howard Armstrong, chairman of the relocation committee of the International Right-of-Way Association, on behalf of the Oklahoma Department of Transportation;

Wilbur W. Hamilton, executive director, San Francisco Redevelopment Agency, on behalf of the National Association of Housing and Redevelopment Officials.

Block grants

Although supporting its general thrust, witnesses representing State and local interest groups offered only qualified endorsement of the legislation. The principal concern was with respect to the administration's proposal to eliminate coverage under the act for persons displaced by programs "in which the Federal Government has no direct responsibility with respect to specific site or project approval decisions." Stephen Bollinger, testifying for HUD, made clear that the intent of the amendment was to exclude the community development block grant program from URA requirements, based on the administration's initative, under New Federalism, to disencumber State and local decisionmaking. However, Charles Swinburn, testifying for DOT, expressed the administration's concern that the definition used in the amendment would also include the Federal Highway Administration's certification acceptance program. He explained that the administration intended for this program to remain subject to URA requirements. The view that both transportation and housing programs should remain covered under the act was unanimously expressed by the State and local interest groups; although, James Martin, testifying for the National Governors Association, cautioned against using URA as a precedent for the applicability of other crosscutting mandates to block grants. Wilbur W. Hamilton summarized NAHRO's qualified endorsement of S. 2363, saying:

> We should not retreat from a policy of helping those less fortunate who are unable to have long ago moved out of an area so blighted that its only hope of recovery is to tear it down and start anew. You have in this bill some reasonable, efficient, economically feasible alternatives on the administration of the Uniform Act. We think that barring section 101(4) [to exempt block grant programs] these more uniform, less costly provisions coupled with greater flexibility for local options will serve to make URA a much more just statute.

Eminent domain

A second controversy surrounded the provision to transfer exclusive jurisdiction over federally acquired lands to the States. This amendment was designed to resolve differences in compensation and treatment of individuals under State and Federal law of eminent domain. Currently, Federal law is used to preempt State law when a Federal agency directly acquires land within a State. The intent was to have condemnation cases involving direct Federal acquisition tried in State courts under State law. Although expressing support for the thrust of the amendment, the National Governors Association raised a concern that the adjudication in State courts of the 20,000 condemnation cases identified by GAO as pending before the Federal courts could have the effect of transferring up to $100 million in administrative costs to the States.

Joseph Wright, testifying for OMB, notified the subcommittee that the administration had withdrawn its support for the amendment. He indicated that the administration was taking prompt administrative steps to resolve the problems cited by the GAO.

Other issues

Several other concerns were raised in testimony. Witnesses for NCLS, the U.S. Conference of Mayors, and NAHRO raised the possibility that abuse could occur under the provision to allow the head of a displacing agency to waive, with the consent of the displaced person, the requirement to relocate such persons to suitable replacement dwellings. The fear was that tenants with limited incomes might not fully understand the implications of their waiving their right to decent, safe, and sanitary housing, and might be rehoused in inadequate, substandard housing as a way of conserving the displacing agency's resources. State Senator Timilty, testifying for NCSL, also raised the possibility that the substitution of the "suitable replacement dwelling" entitlement for the current entitlement to "comparable replacement housing" could allow agencies to make only minimal efforts to restore a person to his or her former housing conditions, or to set inequitable standards of habitability or affordability, as a means of conserving resources. Finally, HUD pointed out that the legislation may be unnecessarily restrictive in its definition of a displaced person, and in providing authority for displacing agencies to provide assistance to such persons.

As a result of the hearing on S. 2363, and subsequent consultation with interested parties, the subcommittee has reported S. 531, as amended. As amended, S. 531 addresses each of the concerns noted above.

III. STATEMENT AND SUMMARY

The committee recognizes that S. 531, as amended, will not result in the compensation of persons displaced by Federal or federally assisted programs or projects to the satisfaction of all parties concerned. However, the relocation assistance policies mandated by this legislation are believed to be reasonable and just. They represent a fair and equitable balancing of the need to efficiently carry out programs and projects in the public interest, with the historic responsibility of government, at all levels, to minimize the disproportionate injury and hardship imposed on individuals as a result of programs designed to benefit the public.

Even as broadened under S. 531, as amended, the act will cover only a small proportion of all involuntary displacement occurring in the United States. According to recent studies by the Department of Housing and Urban Development, the great majority of involuntary displacement occurs through the abandonment of substandard housing. Such abandonment takes place when property owners, tenants, and even local governments, "disinvest" in buildings and infrastructures, until the available housing stock in certain areas is wholly unfit for human habitation. The committeee believes that the renovation and redevelopment of the Nation's housing stock is essential to limiting this most prevalent form of displacement.

Accordingly, to the extent that the act is applicable to housing and community development programs, relocation assistance must avoid becoming so generous as to render to cost of renovation and redevelopment programs uneconomical for State and local governments. The committee believes that such a policy would be inconsistent with the long-term public interest, and unmindful of past State and local opposition to amendments offered by the committee. So, even as the committee has considerably broadened the classes of persons eligible under URA to include tenants displaced, primarily, through redevelopment-related activities, such as rehabilitation, demolition and code enforcement, it has done so in a manner intended to substantially reduce the unnecessary administrative and relocation costs.

A most critical element of this legislation, therefore, is a number of management-oriented reforms, designed to produce savings in administrative costs, and insure the more equitable allocation of scarce public resources to persons whose injury or need is greatest. The committee recognizes that in the absense of such savings, a broadening of the act's scope may not be reasonable or appropriate.

A brief summary of the major provisions of the bill follows:

1. HOUSING POLICY

The committee reaffirms the policy that displacing agencies have an affirmative obligation to provide suitable replacement housing that is decent, safe, and sanitary to those persons whom they displace. Of particular concern to the committee are those economically disadvantaged who are least able to afford suitable replacement housing and who are involuntarily displaced. The committee construes such persons to be those of lower income, as defined in section 3(a) of the Housing Act of 1937, as amended, and who are, therefore, eligible for federally assisted housing. Mindful of the present tight rental market, particularly for lower income people, and of the extremely limited possibilities for additions to the publicly assisted supply of such housing, the committee believes that in circumstances of public displacement, the displacing agency has an obligation to provide such replacement housing by incorporating the costs of constructing or rehabilitating such into its project costs.

2. REGULATORY POLICY

The legislation contains a major revision of section 201, which establishes the policy underlying the requirement to provide relocation assistance. The committee's revisions are largely intended to establish the conditions under which regulatory flexibility is preferable to uniformity. Currently, Federal agency regulations differ considerably from agency to agency, and each agency has incorporated a high degree of prescriptiveness and specificity in its regulations. Conversely, the committee intends that there be a single, uniform set of Federal regulations, so that State and local governments do not have to bear the administrative expense of following multiple sets of Federal regulations. Moreover, the committee wishes to insure that Federal regulations delegate substantial administrative discretion to State and local governments, in order that States and communities may have the maximum flexibility to provide relocation assistance in accord with the circumstances of communities, and the unique needs and preferences of individuals. Section 213 is amended to require the President to designate a lead Federal agency which would be responsible for promulgating uniform Federal regulations.

3. CERTIFICATION OF STATE LAWS

Sections 210 and 305 are amended to add parallel new subsections under which a State would be able to promulgate relocation regulations to apply in lieu of the Federal uniform regulations, if such State adopts a law which the head of the lead agency determines has the same purpose and effect as the Uniform Act, particularly with respect to the definition of a displaced person, the categories of assistance required, and the levels of assistance provided to such persons in such categories. The committee intends for these provisions to expand upon the policy of delegating substantial administrative discretion to States and local governments, while maintaining the basic mandate that persons displaced by federally assisted programs or projects receive fair and equitable treatment—the Federal regulations would continue to apply where acquisition is undertaken directly by a Federal agency, using Federal power of eminent domain. The committee intends that the act serve as model legislation, but that State laws may deviate from the act in minor respects which take into account the State's unique circumstances. However, the purpose of such deviation shall be in accord with the underlying policy of the act.

4. BROADENED ELIGIBILITY

The legislation makes two changes to title I which broaden the applicability of the act to include persons not currently eligible for assistance. Persons displaced by private entities with the power of eminent domain, such as public utilities and private development corporations, would be covered if the property is acquired directly pursuant to a federally funded program or project. Also, persons displaced by nonacquisition activities, such as rehabilitation, demolition, or code enforcement, would be eligible to receive benefits. Nonacquisition activities were originally covered under the act through references to the National Housing Act of 1949 and the Demonstration Cities and Metropolitan Development Act of 1966. However, they ceased to be covered when these laws were superseded by the Housing and Community Development Act of 1974. They have since been covered by as many as 13 different HUD regulations, mostly, at lower benefit levels. Recently, HUD has dismantled several of these regulations. The committee expressly intends that persons displaced as a direct result of activities funded by the HUD Community Development Block Grant program will be eligible for relocation benefits under this act.

5. MOVING EXPENSES FOR BUSINESSES

The legislation adds a new paragraph (4) to section 202(a) designed to compensate displaced small businesses and nonprofit organizations for reasonable expenses of up to $10,000 toward their reestablishment at a replacement site. Currently, businesses and nonprofit organizations enjoy substantially less protection under the act than do homeowners or residential tenants, with the result that displacement-related hardships often cause such entities to fail. The committee intends that the new payment created by this provision mitigate the incidence of such nonprofit organization and small business failure. An additional change to this section would increase the amount a business or non-profit organization may receive in lieu of itemized moving expenses from $10,00 to $20,000, and lower the floor of such payment from $2,500 to $1,000. The principal intent is allow the increased use of moving cost estimates, and thereby allow displacing agencies to forego the administrative cost of itemization.

6. REPLACEMENT HOUSING ENTITLEMENT

The legislation changes the definition of the replacement dwelling to which a person is entitled to be relocated from a "comparable replacement dwelling" to a "suitable replacement dwelling". A suitable relacement dwelling is defined, in part, as one which is decent, safe, and sanitary, thus reaffirming the act's commitment to the national housing goal of a decent, safe, and sanitary dwelling for every American. The new definition is added under section 101, and is used to compute payments under title II. The "comparable" standard has been very rigorously interpreted to mean the "most nearly identical, or better" property. This focus on physical comparabilities, rather than comparability in value or utility, has made the entitlement expensive and difficult to administer. The committee intends that the "suitable" standard be more flexible, without compromising the basic intent to restore persons to their former levels of well-being.

IV. Section-by-Section Analysis

DEFINITIONS

Section 101(a)

Section 101(1) is amended to eliminate reference to the Act to the National Capital Housing Authority and the District of Columia

Redevelopment Land Agency. These entities are included in the new definition of "State agency," as having power of eminent domain.

Section 101(b)

Section 101(3) is amended to expand the definition of a "State agency" to include a private corporation that has State power of eminent domain. The committee considers such entities to have the same responsibilities as State agencies for the purposes of providing benefits under the act. Specifically, it is intended that the expanded definition of "State agency" take under the act the displacing activities of private development corporations and public utilities. The intent is to insure that whenever a person is displaced as the direct result of acquisition for a federally funded program or project there be a collateral responsibility to provide relocation assistance to the displaced person.

Section 101(c)

Section 101(4) is amended to limit the applicability of the act by defining the term "Federal financial assistance" to exclude programs involving a mortgage interest subsidy to a person. Such subsidies are not believed to be direct causes of displacement. Rather, any displacement that may result from such programs is believed to be primarily the result of a routine private decision to sell property in the Marketplace, and not the result of the mortgage subsidy.

Section 101(d)

Section 101(6) is amended to expand the definition of the term "displaced person" to include persons displaced by activities other than acquisition, and to cover the displacement of utility facilities, such as transmission lines, from public property.

The committee recognizes that the nature of Federal programs is such that acquisition of property under eminent domain, or the threat thereof, is not the only cause of the permanent and involuntary displacement of a person. The legislation provides that tenants, other than utilities, permanently displaced by rehabilitation and demolition projects (section 101(6)(B)), which may not involve acquisition by a Federal or State agency, are eligible for relocation assistance under subsections (a) and (b) of section 202 (moving expenses) and section 205 (advisory services). The committee emphasizes that residential tenants eligible for advisory services under section 205 are also eligible, under the authority of section 206 (last resort housing) for such rental assistance as may be provided under section 204 (replacement housing for tenants), to the extent that a suitable replacement swelling is not within such persons' financial means: section 205(c)(3) requires that a displacing agency assure that a person shall not be required to move from a dwelling unless the person has been given a reasonable opportunity to relocate to a suitable replacement dwelling; while the definition of the term "suitable replacement dwelling" requires that such dwelling be within the financial means of the displaced person.

A second provision (section 101(6)(C)) would provide that any other person, who is a tenant, other than a utility, and is determined by the head of the displacing agency to be permanently displaced by any other activity, such as code enforcement, is eligible for subsections (a) and (b) of section 202 (moving expenses), and any other assistance under the act which the head of the displacing agency may prescribe. By leaving the definition of the displacing activity open, and not specifying, for example, code enforcement, the committee intends to avoid unnecessarily restricting the categories of displacing activities for which relocation assistance is required. It is the express intent of the committee, in this regard, that no person be permanently displaced as a direct result of a federally funded project without receiving, as a minimum, moving expenses. In accord with this intent, it is the affirmative duty of the head of the displacing agency to determine a person's eligibility under section 101(6)(C). The committee intends for this responsibility to be delineated in lead agency regulations.

In the legislation transmitted by the administration, the eligibility under paragraph (B) and (C) would be limited to residential tenants. The committee believes that such a limitation would be inequitable, and would conflict with the committee's intent to prevent federally funded projects from causing businesses to fail as a result of displacement. Accordingly, the committee has deleted the term "residential", making the benefits under paragraphs (B) and (C) of this subsection applicable to businesses as well as residential tenants.

The committee is aware, however, that there are certain circumstances under which a requirement to provide relocation assistance would work a hardship on such businesses, unless the businesses have the option of waiving its right to relocation assistance. Such a case would occur, for example, where a project under the urban development action grant [UDAG] program may be financially infeasible if all the businesses to be displaced must be provided the assistance under section 202(a). In such cases, it may be advantageous for such businesses to waive their rights under the act in return for negotiated consideration which they find preferable to cancellation of the project.

Although the committee intends that a displaced person under section 101(6) be both permanently and involuntarily displaced, and thus injured sufficiently to require assistance, it also recognizes that, in many cases, it is difficult to ascertain whether displacement is wholly, or even partially, involuntary. Accordingly, a determination that displacement is involuntary is not required for the purpose of determining a person's eligibility for assistance under the act.

The committee intends that lead agency regulation define permanent displacement. Criteria should take into account whether the tenant is permitted to continue in occupancy of his or her current dwelling, or another dwelling on the same site, and whether such dwelling is affordable, and the tenant will be offered an opportunity to lease such dwelling for a reasonable period of time. If displacement is temporary, such displacement should be for a reasonable period, generally not longer than one year, and all increased costs associated therewith should be paid by the displacing agency. Notwithstanding, whenever a person's displacement is found to be entirely voluntary, and unrelated in motive to the program or project, the committee contemplates that such person would not be displaced person for the purposes of the act.

In addition, the committee intends that for a person to be a displaced person, displacement from publicly owned or controlled property must be directly related to a federally funded program or project. If, for example, a public agency has acquired property pursuant to a public project, but does not plan to utilize such property in such project for a period of months or years, the agency may, for sound property management reasons, find it desirable to lease, rent, or otherwise make available under negotiated terms such property to subsequent tenants until such time as the property is needed for the purpose of the original acquisition. In such cases, it is not intended that the subsequent tenants would become displaced persons for the purposes of this act, if such persons have been made aware of the pendency of the project and specify in writing their willingness to vacate such property at such time as such property is needed for such purpose.

The legislation contains a third new paragraph (sec. 101(6)(D)) which limits the eligibility of certain persons or entities under this subsection. The paragraph includes a provision to make ineligible for assistance those persons who are in unlawful occupancy of the displacement dwelling, or who have occupied the displacement dwelling for the purpose of obtaining assistance under the act.

The committee intends that lead agency regulations shall narrowly interpret the term "unlawful occupancy", in order to avoid injustices that may occur over technical violations of a law. For example, unlitigated violations of the terms of a lease, such as having an unauthorized pet, or the withholding of rent because of improper building maintenance, are not intended to be covered under the term. However, an unlawful occupant could be a squatter, or a person who has been ordered to move from the displacement dwelling by a court of law. Nevertheless, the committee recognizes that squatters may provide a service, albiet an unlawful one, to a community by maintaining otherwise neglected buildings. While the granting of relocation assistance to such persons is viewed as permissible under the act, the committee wishes to provide the heads of displacing agencies with the greatest possible discretion in determining the eligibility of such persons.

Finally, a fourth new paragraph (E) is added to section 101(6), with conforming changes to paragraphs (A), (B), and (C) of this section and to section 202, to establish the eligibility of utilities for moving expenses under section 202 in cases where such utilities are required to move transmission lines or other facilities from real property which is under the ownership or control of a Federal, State, or local agency. The provisions are intended to address the problems arising from the case presently pending before the Supreme Court, *C&P Telephone Company* v. *Norfolk Redevelopment and Housing Authority and Housing and Urban Development* (No. 81-1602, 3/25/82), and to provide for less burdensome procedures for compensating utilities for such costs than exist under current law.

Section 101(e)

Section 101 is expanded by adding new definitions of the terms "suitable replacement dwelling", "displacing agency", "lead agency", and "appraisal". These definitions are self-explanatory, except for the following:

The term "displacing agency" means any Federal agency, State, or State agency, or, for the purposes of paragraphs (B) and (C) of section 101(6), any person, furnished Federal financial assistance which causes a person to be a displaced person. The committee intends that acquisition by private parties who do not have the power of eminent domain, even if undertaken pursuant to a Federal or federally assisted program or project, is not sufficient cause of injury to make the owner of such property person a displaced person under paragraph (A) of section 101(6). Where applicable, however, the tenant shall be provided with assistance in accordance with paragraphs (B) or (C). Such would be the case, for example, when the federally assisted private activity resulted in a tenant's permanent displacement.

The term "suitable replacement dwelling" means any dwelling that is decent, safe, and sanitary; functionally similar; within the financial means of the displaced person; in an area not subject to unreasonable adverse conditions; and in a location generally not less desirable than the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

This standard is substituted throughout the act in place of "Comparable Replacement Dwelling" as the dwelling to which a displaced person is entitled to be relocated. As a result of the narrow definition accorded this term by Federal agencies, comparability has resulted in substantial redtape, expense, and payments in excess of a person's needs. The term "comparable" derives from its usage in the appraisal profession, and traces its lineage under URA to the Federal Highway Aid Act of 1968. The most commonly used method of property valuation—that is appraisal—is the market approach which uses "comparable" properties as an indicator as value. For example, to determine the value of a three-bedroom, 1,500 square foot, brick, colonial-style house, an appraiser would attempt to find the most nearly comparable dwelling that has recently been sold. Similarly, the concept, as applied under Federal regulations generally means "most nearly comparable, or better". While the Committee supports the requirement to provide a displaced person with a replacement dwelling that is comparable in value (in the case of homeowners) and functionally similar to the displacement dwelling, it feels that Federal agencies, in applying the strict usage of "comparability" required for the purposes of making accurate appraisals, have placed an unreasonable emphasis on the physical similarities of the displacement and replacement dwellings.

The suitability standard is intended to be more flexible, without compromising the intent that a person not be left materially less well off as a direct result of the person's displacement. The committee intends that lead agency regulations establish minimum, reasonable standards of habitability and affordability (relating the phrase "within the means of the displaced person") with respect to the definition of a suitable replacement dwelling. Such standards should be consistent with generally accepted standards established by the Department of Housing and Urban Development. In particular, it is intended that the definition of affordability take into account the committee's intent to make displaced persons "whole", and the income of the displaced person, exclusive of the relocation assistance payment and other temporary public assistance.

The term "appraisal" is defined to mean a written statement independently prepared by a qualified appraiser setting forth an opinion of defined value of an identified interest in an adequately described property as of a specific date supported by an analysis of relevant market information. The committee intends that the phrase "independently prepared" be interpreted to require impartiality—or freedom from bias—in the development of the appraisal, as well as to preclude any collaboration between individual appraisers who are appraising the same property. Conversely, it is not intended that the term "independent" require that an appraiser be privately employed, or unaffilliated with a governmental agency. The committee endorses the employment of staff appraisers by public agencies where such employment is determined by agency management to be economical and efficient.

POLICY

Section 201

Section 201. The legislation significantly expands section 201 for the purpose of establishing guidelines for the implementation of the act.

A new subsection 201(a) is created to express the committee's findings that federally caused displacement occurs under rehabilitation and demolition activities, as well as acquisition activities; that flexibility in the act to meet the unique circumstances of displaced persons is fair and equitable; and that minimizing the adverse impact displacements have on businesses is vital to the economic well-being of communities.

Section 201(b) significantly expands the policy guidance provided under the act. The committee intends that the administration of the act, particularly the development of regulations, be in accordance with such policies. Of special importance is the policy to minimize the administrative and program costs borne by State and local governments through the promulgation of economical lead agency regulations and the delegation of substantial discretion under the act to such State and local governments. In the legislation transmitted by the administration, it was stipulated that such substantial administrative discretion should be accorded to the States. While agreeing with the principle of delegating discretion, the committee has clarified that local governments should also benefit from such discretion. Accordingly, it has striken the term "the States" and inserted in lieu thereof "State and local governments."

The committee's intent is that regulations promulgated by the lead agency should be broad and performance based, and, to the maximum extent possible, devoid of requirements which reflect the individual program orientations of the various Federal agencies. To the extent that there is latitude for varying interpretations of the act's provisions, it should be accorded, whenever possible, to State and local governments. It is in this context that flexibility is preferable to uniformity. Uniform Federal regulations are mandatory, but such regulations should incorporate only such guidance as is necessary to insure a minimum Federal standard for acquisition procedures and relocation assistance.

Consistent with the administration's proposal, the committee also intends that Federal agencies implement steps to minimize waste, fraud, and mismanagement. One such responsibility is to assure that persons in essentially similar circumstances are accorded equal treatment. The intent is that a person not be provided more or less assistance based solely on the mission of the displacing agency, the amount of project resources at its disposal, or on an agency official's decision to favor one person's interests over another's. Finally, the committee expressly intends that activities under the act to improve the housing conditions of the poor be integrated, as fully as possible, with existing housing programs that implement National housing policy.

MOVING AND RELATED EXPENSES

Section 202

The legislation adds a new paragraph (4) to section 202(a) to provide compensation for reasonable expenses, of up to $10,000, necessary to reestablish a nonprofit organization or small business at its new site. The amendment addresses the fact that under existing legislation, businesses have substantially fewer entitlements under the act than do residential tenants and homeowners. Such entities are currently entitled only to moving expenses under title II. They generally do not receive an adjustment payment for the increased costs of new leases, or advertising and related expenses necessary to reestablish themselves at a new location. Accordingly, many nonprofit organizations and small businesses have failed as a consequence of federally caused displacement. The additional amount, though not large, is intended to help such entities adjust to the hardships of displacement by covering any reasonable costs of relocation over and above actual moving costs. While it is intended that the lead agency provide technical guidance with respect to the items covered, maximum discretion should be accorded the States or displacing agencies for developing regulations to implement this provision.

In the bill transmitted by the administration, the new payment would have applied to all businesses, regardless of their financial capabilities to absorb the costs of displacement. The committee intends that such payment be used to mitigate the high incidence of small business failures caused by federally funded displacement. Accordingly, the legislation in amended to restrict the eligibility for such payment to nonprofit organizations and small businesses.

The committee intends that, for the purpose of this title, the term "small business" shall have the same meaning as that term defined in section 3 of the Small Business Act (15 U.S.C. 632), and by regulations established by the Administrator of the Small Business Administration. The committee is seeking to avoid unnecessary and duplicative definitions wherever possible to reduce administrative costs. In the case of small businesses, the committee is advised that the SBA can readily determine whether a business is a "small business" by referencing its standard industrial code as used on income tax forms, and applying a simple test of the number of employees or the dollar volume of business for the preceding 3 years. The committee, therefore, contemplates that displacing agencies would consult with their local SBA office when displacing businesses to determine whether they are "small businesses".

Section 202(b) is amended to eliminate the ceiling and floor on, and combine into a single allowance, the expense and dislocation allowances, which set the amount paid to homeowners and tenants in lieu of itemized expenses for moving and other expenses associated with relocating. The setting of such payments is delegated to the head of the lead agency. Removal of the ceiling allows the payment to be adjusted upward to account for inflation. A higher ceiling is intended to correct the incentive for persons to itemize actual expenses, and thereby increase the attendant paperwork burden, when the expense and dislocation allowance is so low as to be insufficient to cover moving costs. It will thus limit the administrative expense associated with increased itemization of moving costs by homeowners and tenants. Removal of the floor will help to avoid windfalls presently resulting when the minimum payment substantially exceeds the actual costs associated with moving. To the extent practicable, lead agency regulations should take into account the input of State and local administrators.

Section 202(c) is amended to raise the current $10,000 ceiling on the amount a displaced business, nonprofit organization, or farm operation may receive in lieu of itemized expenses for moving and other expenses associated with relocating to $20,000, and lowers the minimum amount from $2,500 to $1,000. The higher ceiling represents an adjustment for inflation. After 12 years the ceiling had become so low in real terms as provide an incentive for businesses to elect to itemize actual expenses, which has an associated paperwork burden. The floor is lowered to preclude the necessity for the lead agency to choose between a rule that overcompensate certain very small part-time businesses (such as those often located in the person's residence) and a rule that renders some businesses ineligible for compensation under this subsection.

The legislation also deletes the requirement that the amount paid under this section be determined based on the annual income of such concern in favor of criteria to be established in lead agency regulations. While the lead agency may continue to employ the "annual income" or "loss of existing patronage" criteria, inasmuch as such payment is intended to compensate businesses for injuries as well as moving expenses, the committee intends to leave open the way for more innovative and less burdensome criteria which take such purposes into account. Accordingly, lead agency regulations should allow for deviations from the prescribed method by State or local displacing agencies, subject to minimum reasonable standards of accountability. Finally, the legislation excludes from eligibility for this payment persons whose sole business was the renting of the displacement property to others. The committee contemplates that a payment under this subsection could overcompensate such persons who receive adequate compensation as a result of the payment of "fair market value" (under section 301(3) of this act) of their real property or leasehold interest, and whose actual moving expenses, if any, are paid under subsection (a) of this section.

A new subsection (d) is added to authorize the head of the displacing agency to provide a payment under this section to a utility whose transmission lines are displaced from property under the ownership or control of a public agency. Additional discussion on this section may be found in the additional views section.

REPLACEMENT HOUSING FOR HOMEOWNER

Section 203

Paragraph (1) of section 203(a) is amended to replace a person's entitlement to be relocated to a comparable replacement dwelling with the entitlement to relocate to a suitable replacement dwelling, and to raise the ceiling on a payment under this section from $15,000 to $22,500 in order to compensate for inflation. The revised replacement housing definition is intended to limit windfalls under the current "comparable" standard, and to ease administrative burdens on displacing agencies

Section 203(a)(1)(B) is amended to change the formula for computing the payment which compensates displaced homeowners for higher mortgage payments at their replacement dwellings. In recent years the legislatively prescribed method for computing the interest differential payment has resulted in windfalls, primarily due to mortgage interest rates having risen above the rate of interest on savings accounts. The present formula for computing the payment requires that it be equal to the lump sum amount, which if placed in a savings account, and drawn down monthly, would cover the additional interest expense over the period of the mortgage. Agencies estimate that overpayments under this formula exceed $12 million annually. Mindful of the problems under the existing mandated formula, and the increasing popularity of "variable rate" mortgages, the present formula has been replaced with a nonspecific performance requirement.

The intent is for the lead agency to develop an economical method which will provide the displaced person with a payment based on the amount necessary to buy a replacement dwelling without increasing his or her combined payment for monthly principal and interest. The committee contemplates that, for conventionally financed mortgages, the payment for the increased interest cost would be the amount which, if applied to reduce the mortgage balance on the replacement dwelling, would reduce the monthly mortgage payments (principal and interest combined on the replacement dwelling to the same level as the payment on the displacement dwelling, assuming the same term and outstanding balance. However, if the term of the mortgage on the replacement dwelling were shorter than the term of the mortgage on the replacement dwelling, the shorter term would be used in the payment computation. And, if the principal amount of the mortgage on the replacement dwelling were lower than the balance on the displacement dwelling, the computation would similarly reflect this circumstance. The foregoing formula, variously referred to as the "pay down" or "buy down" method, is believed to be equitable.

Section 203(C)(2) is amended to allow the head of the displacing agency to extend, for good cause, the one-year period in which a person must relocate to a replacement dwelling in order to receive a payment under this section, except that payments are to be computed based on the amount a person would otherwise be entitled to if relocation had taken place within 1 year from the acquisition date (that is, the date of referral). The 1-year rule is to limit a displacing agency's obligation to provide relocation assistance payments where the date of displacement is significantly later than the date the person has been provided referrals to suitable replacement housing. This situation typically occurs when agencies lease acquired property back to the displacee for a period of years. During such time, land prices and relocation costs may increase significantly, thus raising the amount of the relocation payment. The committee's intent is that displacing agencies not be financially responsible for decisions by sellers to lease a dwelling or property for a period following acquisition, except where the displacing agency has not provided the displaced person with a referral to a suitable replacement dwelling. However, it recognizes that in certain extraordinary cases an agency may not make such a referral within the 1-year period. Thus, it would be fair and equitable to waive the 1-year rule in such cases.

In the legislation originally developed in the 97th Congress (S. 2363) a sentence was added to the end of section 203(a)(2) to insure that persons would not be left materially less well off "similar in type of improvement to the displacement dwelling"). In the current legislation, this question has been addressed through a modification to the term "suitable replacement dwelling" (section 101(10)). Accordingly, the committee has deleted the last sentence in paragraph (2), inasmuch as it is redundant in light of the change to section 101(10).

REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

Section 204

Section 204(a) is amended to require that relocation be to a suitable replacement dewelling. The sutiability standard is established in order that such standard be consistent throughout the act currently, no standard is mandated under this section.

A second change would eliminate the $4,000 payment ceiling under this section, and replace it with a formula, applying only to persons whose incomes are above 50 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, that pays the lesser of (A) $4,500 or (B) 36 times the amount obtained by subtracting the monthly housing cost for the displacement dwelling from the monthly housing cost for a suitable replacement dwelling. The intent is to make displaced tenants whole by relocating such persons to rental dwellings for which the monthly housing costs are the same as those at the displacement dewelling. The term "monthly housing costs" should be defined in lead agency regulations to includee rent and utility charges, including hot water, lighting, water and sewer, trash removal, and heat, as required by climactic conditions.

In the legislation transmitted by the administration, all rental assistance payments would have been computed solely on the basis of the make whole formula, regardless of their financial means. The committee views this application as conflicting with the requirement that a suitable replacement dwelling be within the financial means of the displaced person. The intent of the committee is to insure that persons of limited means, who are paying an unreasonably high percentage of their income toward housing costs, have the burden of excessive housing costs relieved for the period during which they are entitled to suitable replacement housing. Accordingly, the committee contemplates that the rental assistance payments of all persons with income below 80 percent of the median income for the area shall be computed under a payment formula that takes into account the percentage of income such persons must devote to housing—as well as the make whole formula, where such formula would result in a higher payment. The committee believes that persons whose incomes exceed such amount have greater discretion over the amount of income they devote to housing cost.

A third amendment to this subsection would provide a displacing agency with the authority to make assistance available under this subsection in monthly installment payments. The intent is to allow such agencies to insure that the payments under this subsection are timely, and are used for their intended purpose of relocating a person to a suitable dwelling.

Section 204(b) is amended to allow persons who are eligible to receive a payment under this section, and who are otherwise eligible for low income housing assistance programs that are either federally administered or assisted, to elect instead to receive such housing assistance, provided that it is available; but where such person opts for the cash payment, this is to be taken into account by Federal or federally assisted agencies when determining such person's eligibility for housing assistance programs during the 2 years following the date on which such person received the cash payment. The committee intends for this provision to eliminate windfalls that benefit persons who receive double housing subsidies, as a result of their eligibility for the assistance provided under this section, as well as the assistance provided under Federal or federally assisted housing programs. To the extent practicable, the displacing agencies should insure that data concerning the provision of subsidies under this section be available to public housing agencies, in order that such information may be taken into consideration for the purpose of this section.

Section 204(c) is amended to eliminate the requirement that persons who elect to apply the amount allowed under this section toward a downpayment on, and expenses pursuant to, the purchase of a replacement dwelling match any amount over $2,000. This is to eliminate the burdensome paperwork associated with the matching funds as required under existing statute. The section is further amended to provide that payments under this subsection not be more than they would be under subsection (a) to eliminate the use of higher payments as an inducement to homeownership. Finally, a third amendment provides that homeowners who do not meet the 180 day residency requirements, but meet the 90 day residency requirements for tenants, remain eligible for the full $4,500 payment under this section, as is currently the case. This provision is a technical adjustment to differentiate 90 to 179 day homeowners from tenants, with respect to the limitation in the amount of a payment a person may receive under this subsection to those under subsection.

RELOCATION ASSISTANCE COORDINATION AND ADVISORY SERVICES

Section 205

Section 205(b) is amended to require the Secretary of Housing and Urban Development to assign a high priority for assistance to persons who choose under section 204(b) to receive public housing assistance instead of a cash payment. The intent is to eliminate, wherever feasible, the provision of multiple rental subsidies to those in need of such assistance. The committee believes that it is most efficient to provide housing subsidies at the point of displacement, and intends that the Secretary coordinate closely with the head of the lead agency to insure that existing programs to accomplish such purpose are effectively directed to such persons. Similarly, the section is also amended to require the heads of other Federal agencies whose programs are of assistance to displaced persons to take practicable measures to provide technical assistance to displaced persons in preparing applications for such programs, and to expedite the consideration of such applications. This is to insure better coordination of governmental programs, generally, and to better target such resources toward minimizing the displacement related hardships that result from Federal programs.

Section 205(c) is amended to eliminate the requirement that a displacing agency provide information on the availability of comparable replacement dwellings in favor of a requirement to provide information on suitable replacement dwellings; to include farm operations among the businesses for which information on alternative locations must be provided; to substitute the requirement that an agency provide a displaced person with a reasonable opportunity to relocate to a comparable replacement dwelling in favor of a requirement to provide a reasonable opportunity to relocate to a suitable replacement dwelling; and to provide an explicit assurance that homeowners who are displaced under federally funded programs shall be given a reasonable opportunity to remain in such occupancy status.

The substitution of the "suitable" standard for the "comparable" standard is based on the need to eliminate windfalls and ridigities in the administration of the act. The responsibility under paragraph (3) of this subsection to provide displaced persons with a reasonable opportunity to relocate to a suitable replacement dwelling suggests that, in areas with extensive housing markets, more than one such dwelling may be an appropriate and reasonable number of referrals from which the displaced person may choose. However, the committee recognizes that in certain rural, or other areas with severe housing constraints, the location of a single suitable replacement dwelling may be reasonable. The committee again stresses that section 205(C)(3) requires that a person eligible for assistance under this section, but not section 204, shall be eligible, under the authority of section 206, for rental assistance payments such as are provided under section 204, if a suitable replacement dwelling is not within such person's financial means. Relocation to housing that is affordable is required before a project may proceed to completion.

The inclusion of farm operations under paragraphs (2) and (4) is to insure that the persons displaced from such operations receive fair and equitable treatment under the Act.

A new subsection (205(e)) is added to require that when two or more Federal agencies are providing assistance to a geographically or functionally related activity, the agencies agree on a cognizant agency whose procedures will apply to such activities. The committee intends that where the two or more agencies do not agree to designate among them a cognizant agency, and do not appeal to the head of the lead agency to designate such cognizant agency, a city, county, or other general purpose local government may petition the head of the lead agency to make such designation, irrespective of the wishes of the affected agencies. The head of the lead agency may allow the agencies to show good cause why such designation is not appropriate. This procedure is intended to eliminate redtape and paperwork burdens on local governmental entities where Federal agency regulations may be uniform, but procedures still differ. It will also serve to equalize payments when different agency procedures would result in different determinations of eligibility for benefits. Notwithstanding, the committee intends such cognizant agencies be established on a project-by-project basis, not in perpetuity.

HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

Section 206

Section 206(a) is amended to establish that the unavailability of suitable, as opposed to comparable, replacement sale or rental dwellings will determine whether last resort housing must be provided; and that the lead agency shall promulgate a regulation to the effect that this section may not be used to exceed the payment ceilings under sections 203 and 204, except on a case-by-case, basis, for good cause.

Under current procedure, some Federal agencies virtually require the use of last resort housing whenever a payment computed under sections 203 and 204 will exceed the payment ceilings established in such sections, while other Federal agencies strictly observe the ceilings. This has led to significantly different payments under the act to persons in essentially similar circumstances. The committee intends for the head of the lead agency to set uniform standards for all programs in order to assure that persons do not receive different levels of assistance solely due to the mission or objectives of the displacing agencies. Such a single Federal standard should eliminate inequities in payments to persons that result from divergent agency missions and procedures. The committee expressly intends that one such cause for invoking this section would be the inability of the displacing agency to provide housing that is within the means of the displaced person.

Section 206(b) is a new subsection, which is added to establish that a displacing agency's obligation to provide replacement housing under this section may be met by using low income housing assistance in coordination with existing public housing programs—for example, section 8 housing assistance—provided such programs are available. The committee's intent is to emphasize the need for greater coordination of government programs which implement national housing policy, and to avoid unnecessarily restricting the options of displacing agencies in providing cost-effective relocation assistance to persons displaced from substandard housing. However, the committee does not intend that the authority provided under this subsection allow an agency to override the requirement that the replacement dwelling be suitable.

CERTIFICATION

Section 207

A new subsection (c) is added to section 210 to allow the heads of Federal agencies to discharge their responsibilities under this title and title I by accepting a certification from a State agency that it will accomplish the policies and objectives contained in such titles. Such discharge may only take place where the head of the lead agency has first determined that the State has adopted a law which will accomplish the same purpose and effect of the titles, particularly with respect to (i) the definition of a displaced person, (ii) the categories of assistance required, and (iii) the levels of assistance provided to such persons in such categories. Finally, it requires the head of the lead agency, in coordination with the other Federal agencies whoses programs are subject to the act, to monitor and review the enforcement and compliance of any State agency certification accepted under this section and section 305, and to report to Congress thereon on a biennial basis. The legislation transmitted by the administration did not include a reporting requirement. However, the committee added the requirement in the belief that the certification method of devolving administrative responsibility under generally-applicable conditions of Federal assistance—the category to which URA belongs—is experimental, and warrants periodic oversight.

A second new subsection (c) authorizes the head of the lead agency to rescind any certification under subsection (b) for good cause—to be defined in regulation—after providing the State with due notice, and an opportunity to show that such action is not appropriate. The subsection also provides that prior to making any determination under subsection (b), the head of the lead agency shall solicit public comment, and, in particular, shall consult with general purpose governments in the State.

A third subsection (d) is added to clarify that the present authority of the heads of Federal agencies to apply financial sanctions against a State agency for noncompliance with the URA shall also apply with respect to the approved State law. Such sanctions would be designed to complement the decertification authority provided under subsection (b) of this section.

The committee emphasizes that the payment levels, assistance programs, and assurances of suitable replacement dwellings required by this act shall serve as minimum levels and standards which a State must meet. For example, a State law which exempts HUD block grant programs, code enforcement causing permanent displacement, and which exempts any entity with eminent domain from the act's requirements would not accomplish the same purpose and effect of this act. Also essential are the assurances provided under section 205(C)(3), requiring that persons of limited means be subsidized in their relocation to suitable replacement housing. The committee envisions the certification process as a careful one, taking into consideration a State agency's record of managing existing relocation programs, including, but not limited to, providing timely payments to displacees and adequate replacement housing for persons displaced under this act.

This subsection is to expand on the committee's intent under section 201(b)(3) to delegate administrative discretion under the act to the States. In this regard, it is noted that under the current procedure, where each agency is allowed to interpret the act in regulation in accordance with its specific program needs, there is considerable variance in the implementation of the act. Such variance is not wholly inappropriate, inasmuch as each agency is believed to implement the act in good faith, and in accord with the intent of Congress. However, the variance has been a source of considerable administrative burden to State and local governments. Accordingly, the committee intends that, in cases where a State law has been determined to have the same purpose and effect as the URA, the authority to promulgate uniform, statewide regulations in compliance with such laws rests entirely with the State government, instead of the Federal agencies, in order that each State may most effectively take into account its own circumstances.

The committee further intends that the lead agency develop efficient and economic procedures for the review of a State's enforcement and compliance with any certification issued under this section. In accordance with section 201(b)(3) such procedure shall not incorporate unnecessarily burdensome reporting requirements, or in any other way be punitive, or intrusive on the decisionmaking authorities of the States; however, such procedure should reasonably insure that such certified State laws are being complied with and enforced in good faith. The lead agency may, but is not required to, accomplish this intent through a periodic sampling of State compliance efforts, as appropriate. However, in the event that a State agency whose certification has been accepted by a Federal agency is successfully sued in State court by a displaced person because the State agency has intentionally circumvented the provisions of the State law, it is the committee's intent to authorize the head of the lead agency to schedule a public hearing to review the certification. If the finding of such hearing is that the State agency has not fully complied with and enforced such law, the State shall be provided with due notice of such finding, and be provided with a period of time, generally not to exceed 90 days, in which to take the necessary steps to insure compliance as prescribed by the head of the lead agency. If, after such time, the head of the State agency has not taken such steps, the head of the lead agency shall revoke the certification.

The committee believes that in order to adequately monitor the States performance under certification certain basic information must be maintained by the States' displacing agencies. The committee contemplates that the head of the lead agency would require minimal record keeping by the States by prescribing certain formats. Such formats should be reasonable, and provide a data base from which the lead agency could periodically monitor compliance, and upon which it could base its biennial report to Congress.

FEDERAL SHARE OF COSTS

Section 208

Section 211(a) is amended to delete outdated language establishing coverage under the act for projects undertaken before July 1971 is deleted. "State agency" is expanded to "displacing agency" to conform with the amendment made under section 101(11).

Section 211(b) is amended to expand the present prohibition on duplication of compensation occurring when a displaced person receives payments which serve essentially the same purpose as those provided for in the act.

REGULATION

Section 210

Section 213(a) is amended to require the President to establish a lead agency in a department, agency or other body. The lead agency is to: (1) Issue uniform, Government-wide regulations for use by all Federal agencies in administering the act; (2) coordinate, with the assistance of other agencies, relocation activities under title II of the act with Federal and federally assisted housing programs; (3) monitor, in coordination with other Federal agencies, the implementation and enforcement of this act, and report to Congress, as appropriate, on any major issues or problems associated with the act; and (4) perform other duties that pertain to the purposes of the act.

The committee intends for the lead agency to play a particularly important role in minimizing the administrative costs under the act to State and local governments. While the lead agency is to promulgate broad, performance based regulations which delegate substantial administrative discretion to the States and communities, as appropriate, the lead agency should also play a major role in disseminating technical assistance, advice, and information to administering State and local governments. Accordingly, the committee contemplates that the lead agency serve as a clearinghouse for the identification of problems and solutions experienced by the various displacing agencies. It is further intended that materials informing displaced persons of their rights and entitlements under the act be reasonably uniform, and that the lead agency establish minimum standards for such materials.

Other Federal agencies administering Federal or federally assisted programs may issue reasonable procedural requirements consistent with sound management practices. However, to promote uniformity and insure that the burdens on State and local displacing agencies are minimized, it is intended that the lead agency rules will provide sufficient direction to preclude the need for the issuance of basic implementing regulations by other Federal agencies administering federally assisted programs. The lead agency shall take measures to avoid duplicative efforts, promote efficiency, and minimize redtape by carrying out its functions in a manner which allows reasonable flexibility for other Federal agencies to provide appropriate training and technical assistance, conduct monitoring and interpret the lead agency regulations. The lead agency may also delegate to other Federal agencies the authority to issue waivers of any rule not mandated by law. Such waivers shall be justified on a case-by-case basis.

TRANSFER OF SURPLUS PROPERTY

Section 210

Section 218 is amended to establish that the amount to be paid to the General Services Administration by a State after it disposes of surplus property transferred to the State by the Federal Government pursuant to a Federal or federally assisted project will reflect only the net amounts received for such property, rather than all amounts as is currently the case. The committee intends that States be compensated for the cost of marketing such surplus property.

REPEALS

Section 212

Sections 214, 215, 217, and 219 are repealed.

(a) Section 214.—This section, which pertains to the requirement to submit a report on displacement, and which lapsed in 1975, is repealed.

(b) Section 215.—This section, pertaining to the authority of the head of any Federal agency to make loans for planning for relocation assistance activities by nonprofit organizations, et cetera, is repealed due to the fact that this provision has never been implemented, and section 206 is the authority to insure housing is provided.

(c) Section 217.—This section, which pertains to the act's applicability to the Department of Housing and Urban Development programs now being phased out, is repealed.

(d) Section 219.—This section, which pertains to the act's applicability to a now-defunct program in New York City, is repealed.

REAL PROPERTY ACQUISITION

Section 301 (a)

Section 301(2). This section incorporates a new provision under section 301(2) requiring the head of the lead agency to promulgate procedures under which displacing agencies may forgo an appraisal. The provision is intended to lead to the development of rules designed to allow the head of the acquiring agency to forgo an appraisal. The committee contemplates that an appraisal would not be required where the acquisition of the property is a voluntary taking with a relatively low selling price (e.g., under $700 in current dollars), or a donation, where the seller, after being fully informed of his right to an appraisal, waives such right.

The waiver of the requirement to conduct an appraisal on property which is donated is to save project resources and administrative expense. However, the committee believes that an appraisal is not necessary where the property's fair market value need not be ascertained for the purpose of acquiring such property. The procedure allowing for a waiver of an apprasal for voluntary sales of under $700 (or a higher amount, as established by lead agency regulations) is to remove the requirement under existing statute that the acquiring agency provide an appraisal where the value of the property is so low as to make an appriaisal uneconomical. In such cases, the committee contemplates that the seller and the acquiring agency may agree on a reasonable selling price of the property without the aid of an appraisal.

Section 301(b)

Section 301(9) is amended to further define an uneconomic remnant of property as one with little or no value or utility to the owner which is left after the partial acquisition of his property for a Federal or federally assisted project; and to direct the head of an agency administering a federally funded program to offer to acquire such an uneconomic remnant so that the owner or occupant would be eligible for the full benefits under the act. This is intended to eliminate the inequities that result, particularly, where the character of a farm is significantly changed by a partial acquisition. The committee intends that the phrase "value or utility" be interpreted to take into account the best interests of the property owner. If, for example, the remaining property is of such little utility to an owner that the owner will be compelled to sell it, it is fair and equitable that the acquiring agency offer to acquire the remnant, so that the owner does not have to bear the associated marketing costs.

Section 301(c)

A new paragraph (10) is added to section 301, to allow donations under the act, since donations are not viewed as "acquisitions" in the sense that such term is used in this title. Currently, the requirement that "fair market value" be paid in compensation for property acquired by the Federal government is interpreted as precluding the acceptance of donations under the URA.

CERTIFICATION

Section 302

Section 305 is amended to allow the heads of Federal agencies to discharge their obligations under this title under a process parallel with that adopted under the certification provisions of section 210, except where the Federal agency is directly involved in the acquisition.

While the new subsection is intended to be parallel to the similar subsection added to section 210 of the act under section 209 of this legislation, it does not precisely parallel such section because the committee sees no need to emphasize the importance of certain aspects of this title. The head of the lead agency would be required to determine that the State has adopted a law which accomplishes the same purpose as the act. The committee intends for these provisions to delegate broad authority and discretion to State and local governments to implement such State laws in lieu of the Federal statute.

EFFECTIVE DATE

Section 401

Section 401. This section is added to establish that, with the exception of the certification and lead agency provisions, the effective date of the act is 24 months after the date of enactment. The 24 month leadtime on the other provisions of the act are to allow the Federal agencies and the States to develop conforming laws and regulations.

V. REGULATORY IMPACT

In accordance with Rule XXVI, Paragraph 11(b), of the Standing Rules of the Senate, the committee finds S. 531, as amended will reduce the total number of regulations and other paperwork burdens associated with URA. The amendments (1) require the consolidation of the IRA regulations of 20 different Federal departments and agencies in a single, uniform regulation, under which "substantial administrative discretion" is delegated to the States; and (2) broaden the act's coverage to cover HUD programs which cause displacement through activities other than acquisition, thereby superceding the relocation requirements set forth in 13 separate HUD regulations. The bill's net effect is to substantially reduce regulatory requirements under the act. However, several provisions may result in additional regulatory requirements. These include:

SECTION 101(3)

This provision amends the act to cover federally funded acquisition by nongovernmental entities which have State power of eminent domain (e.g., public utilities, or private/nonprofit development corporations). These entities would incur new regulatory costs as a result of being made subject to the act's provisions. There are no precise data for estimating the numbers of entities covered by this amendment, or the number of cases affected. The Edison Electric Institute informs the committee that its 200 members rarely participate in federally funded projects. However, HUD estimates that the number of nonprofit organizations not already providing assistance under the act, which would be subject to the act under this amendment, would equal approximately 20 such organizations. HUD estimates that the annual number of cases affected would not exceed 200. At an average administrative cost of $1,500 per case, the additional compliance cost would not exceed $300,000 annually.

SECTION 204(a)(4)

The amendment to this section creates a new entitlement for small businesses and nonprofit organizations. Displacing agencies must identify whether displaced entities meet these definitions. The identification of a nonprofit organization is believed to be relatively simple, thereby requiring little or no additional administrative effort. The identification of a "small business," as defined by the Small Business Administration, is expected to cause a small amount of additional administrative burden. However, the committee is informed that such status is determined annually for taxation purposes, and that each business is assigned an "industrial code" by SBA which defines a business' status as a "small business." Accordingly, the identification of small businesses is expected to require no more than 20 minutes of staff time per case. Assuming that an average of 4,500 businesses per year are displaced (based on fiscal year 1980 data), and an average staff salary of $10 per hour, the additional compliance cost associated with the amendment would equal approximately $15,000 annually.

SECTION 204(a)

This section is amended to require that benefits to tenants be based partly on a tenant's financial means. The means test mandated by this amendment requires that the displacing agency determine the gross monthly income of the household. Under current procedure, DOT already collects such information in all cases, while HUD does so in all but approximately 1,500 cases each year. In addition, other agencies displace approximately 500 tenant households annually. The collection of income data will typically involve requiring the person to present a recent income tax statement. Assuming an average recording and processing time of 30 minutes per case, at an average staff salary of $10 per hour, and that the new procedure is applied in an additional 2,000 cases annually, the additional compliance cost associated with the amendment would be approximately $10,000 annually. The committee notes that the procedure is designed to save between $10 and $12 million in annual relocation costs.

However, the amendment affects the privacy of the displaced tenant by requiring the disclosure of income data as a condition of receiving assistance under this section. The data would be subject to the same disclosure requirements as other information now collected under the act.

SECTION 204(b)

This amendment establishes that an eligible tenant may opt either to receive either a cash payment, or publically assisted housing, provided that it is available; however, where the person opts for the cash payment, this is to be taken into account when evaluating the person's eligibility for Federal funded housing programs during the next 2 years. While the attendant record keeping requirement may create some additional administrative expense, it is expected to be very minimal. Displacing agencies are required under current law to keep relocation records for 3 years. Further, the option is expected to be offered rarely; and when it is, it is anticipated that persons will generally opt for the higher benefits associated with assisted housing. Finally, because local housing agencies are likely to be a party to any such offering, the recordkeeping will be primarily for "in house" use. The additional compliance cost is expected to result mostly from the inclusion of an additional item on the relocation payment application form.

SECTION 213(d)

This amendment requires States to provide information to the head of the lead agency on a State's enforcement of and compliance with any law certified under section 210(b). While this requirement may involve the creation of substantially different reporting requirements, they are expected to be less burdensome than those currently in use. The certification process is designed to eliminate much of the detailed, project by project scrutiny that occurs when Federal agencies directly monitor displacing activities within a State; and to require uniform reporting requirements and formats so that displacing agencies do not have to comply with multiple, duplicative reporting requirements.

SECTION 210(d)

This provision requires a one-time report to Congress on a plan to facilitate the speedy and equitable settlement of condemnation cases pending before the Federal courts. While the development of the plan may involve up to $100,000 in contract costs (as estimated by the Department of Interior) the plan itself is designed to focus agency attention on possibilities to substantially reduce administrative costs. The GAO has identified approximately 20,000 cases pending before the Federal courts. Because each case results in approximately $5,000 in administrative costs, the administrative costs associated with the pending cases may exceed $100 million.

VI. Estimated Cost of Legislation

In compliance with paragraph 11(a) of rule XXVI of the standing rules of the Senate, the committee provided the following estimate of the cost of S. 531, prepared by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 531.
2. Bill title: Uniform Relocation Act Amendments of 1983.
3. Bill Status: As ordered reported by the Senate Committee on Governmental Affairs, March 17, 1983.
4. Bill purpose: This bill revises current standards and procedures for relocation assistance and property acquisition policies. It changes the eligibility requirements for receiving relocation assistance when a family, individual, farm, business, or nonprofit organization is displaced by a federally financed activity. It also adjusts certain assistance levels, including residential and business moving assistance payments. The bill requires a lead agency to issue government-wide regulations and to develop a plan to facilitate the resolution of condemnation cases currently pending in Federal

courts. It exempts States and localities from certain Federal rules if the lead agency certifies that the State law satisfies the requirements of this act.

5. Estimated cost to the Federal Government: This bill would result in small additional costs in fiscal year 1984, and potential savings in subsequent years, as shown by the following table.

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988
Estimated costs	0.1	−2	−8	−8	−9

The savings in 1985 and subsequent years could be reflected either in reduced spending—if funding levels of the affected programs are correspondingly reduced—or in a reallocation of resources to other activities—if funding levels are not reduced.

Basis of estimate

This estimate is based on current claim levels which have been adjusted to reflect the estimated impact of the proposed changes in eligibility criteria and assistance levels. Most of the provisions of this bill will affect programs financed by the Department of Housing and Urban Development and the Department of Transportation. This estimate is based primarily on data supplied by these agencies; the impact on other agencies is not expected to be significant. It has also been assumed that the number of claims will remain relatively constant in all years but that average award amounts will increase each year at a rate consistent with the CBO projection of increases in the GNP deflator.

This estimate assumes an enactment date of June 1, 1983. A lead agency, to be designated by the President, will be responsible for certain regulatory and adjudicatory activities on the date of enactment. An estimated total of $100,000 would be needed in 1984-85 for these activities. It is assumed that most of the preliminary administrative costs to the lead agency will be incurred in fiscal year 1984, so that other Federal agencies and the States will have time to develop conforming laws and regulations before the remaining provisions of the bill become effective 24 months after enactment.

The bill would result in increased costs of approximately $9 million in fiscal year 1984, primarily for additional moving and related expenses provided to individuals, families, businesses, farms, and nonprofit organizations in the last 4 months of the fiscal year. A portion of the increased costs also result from broadening the eligibility requirements. Offsetting savings of approximately $11 million will result principally from provisions eliminating the current requirement that replacement housing be comparable with the original property and changing the formula for calculating rent supplements and mortgage assistance payments. Savings will also result from provisions that allow agencies acquiring property to forego appraisals in certain circumstances. Estimated savings in fiscal years 1986-88 reflect the annualization of the 1985 estimate, adjusted for inflation.

6. Estimated cost to State and local governments: Most of the relocation activities covered by this bill are administered at the State or local level. The bill will result in some administrative costs because of expanded eligibility criteria and the need to update regulations. These costs are not expected to be significant.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Judith L. Walker and Kathy Gramp.

10. Estimate approved by:

James L. Blum,
Assistant Director for Budget Analysis.

VII. Rollcall Vote in Committee

In compliance with paragraph 7(c) of rule XXVI of the standing rules of the Senate, the rollcall vote taken during committee consideration of this legislation is as follows:

Final passage: Ordered reported, 10 yeas; 0 nays.

YEAS—10	NAYS—0
Percy	
Stevens	
Cohen	
Durenberger	
Rudman	
Cochran	
Eagleton	
Sasser	
Levin	
Roth	

VIII. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the standing rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is printed in roman).

Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970

TITLE I—GENERAL PROVISIONS

Sec. 101. As used in this Act—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government [(except the National Capital Housing Authority)], any wholly owned Government corporation [(except the District of Columbia Redevelopment Land Agency)], and the Ar-

chitect of the Capitol, the Federal Reserve banks and branches thereof.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

[(3) The term "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State and States.]

((3) The term "State agency" means any entity which has eminent domain authority under State law.

(4) The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance, *or mortgage interest subsidy to a person,* and any annual payment or capital loan to the District of Columbia.

(5) The term "person" means any individual, partnership, corporation, or association.

[(6) The term "displaced person" means any person who, on or after the effective date of this Act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 202 (a) and (b) and 205 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.]

(6) The term "displaced person" means—

(A) except as provided under paragraph (E) (with respect to utility facilities on real property under the control or ownership of a Federal, state, or local agency,) any person who moves from real property, moves personal property from real property, or moves a business or farm operation, as a direct result of the written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by a Federal agency or with Federal financial assistance;

(B) solely for the purpose of subsections (a) and (b) of section 202 and of section 205, any person, other than a utility who moves from real property or moves personal property from real property—

(i) as a direct result of the written notice of intent to acquire or the acquisition of other real property, on which such person conducts a business or farm operation, for a program or project undertaken by a Federal agency or with Federal financial assistance; and

(ii) as a direct result of rehabilitation or demolition for a program or project undertaken by a Federal agency or with Federal financial assistance, where the person is a tenant and where the head of the displacing agency determines that such displacement is permanent;

(C) solely for the purpose of subsections (a) and (b) of section 202 and of any other provisions of this Act which the head of the displacing agency may prescribe, any other person, other than a utility, who is a tenant and who the head of the displacing agency determines will be permanently displaced as a direct result of a program or project undertaken by a Federal agency or with Federal financial assistance;

(D) any person who is eligible for relocation assistance under paragraphs (A), (B), or (C) of this subsection, unless such person has been determined, according to criteria established by the head of the lead agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this Act; or

(E) solely for the purpose of subsection (d) of section 202, any utility which moves its facilities from real property under the ownership or control of a Federal, State, or local agency.

(7) The term "business" means any lawful activity, excepting a farm operation, conducted primarily—

(A) for the purpose, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(B) for the sale of services to the public;

(C) by a nonprofit organization; or

(C) solely for the purposes of section 202(a) of this title, for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(8) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operators support.

(9) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(10) The term "suitable replacement dwelling" means any dwelling that is (A) decent, safe, and sanitary; (B) adequate in size to accommodate the occupants; (C) within the financial

means of the displaced person; (D) functionally similar; (E) in an area not subject to unreasonable adverse environmental conditions; and (F) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.

(11) The term "displacing agency" means any Federal agency, State or State agency utilizing Federal financial assistance or, for the purposes of paragraphs (B) and (C) of section 101(6), any person furnished Federal financial assistance which causes a person to be a displaced person.

(12) The term "lead agency" means the Federal department, agency, or other entity designated by the President to coordinate implementation of the Uniform Act under section 213 of this Act.

(13) The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

EFFECT UPON PROPERTY ACQUISITION

SEC. 102. (a) The provisions of section 301 of title III of this Act create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in this Act shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to the date of enactment of this Act.

TITLE II—UNIFORM RELOCATION ASSISTANCE

[DECLARATION OF POLICY]

[SEC. 201. The purpose of this title is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.]

DECLARATION OF FINDINGS AND POLICY

SEC. 201. (a) The Congress finds and declares that—

(1) displacement as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance is caused by a number of activities, including rehabilitation, demolition, code enforcement, and acquisition;

(2) displacement occurs in a variety of social, economic, geographic, and legal circumstances;

(3) relocation assistance policies must provide for sufficient flexibility to assure fair, uniform and equitable treatment of all affected persons;

(4) the displacement of businesses often results in their closure; and

(5) minimizing the adverse impact of displacement of businesses is essential to maintaining the economic and social well-being of communities.

(b) This title establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance, in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

(c) It is the intent of Congress that—

(1) the primary purpose of this title is to minimize the hardship of displacement on persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance;

(2) Federal agencies shall carry out this law in a manner which minimizes waste, fraud, and mismanagement;

(3) the administration of this Act shall, to the maximum extent feasible, minimize unnecessary administrative and program costs borne by States and State agencies through the promulgation of economical regulatory requirements and the delegation of substantial administrative discretion to State and local governments;

(4) uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this Act; and

(5) the improvement of housing conditions of economically disadvantaged persons under this title shall be undertaken, to the maximum extent feasible, in coordination with existing Federal, State, and local governmental programs for accomplishing such goals.

MOVING AND RELATED EXPENSES

[SEC. 202. (a) Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after the effective date of this Act, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for—]

SEC. 202. (a) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of—

(1) actual reasonble expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency; [and]

(3) actual reasonable expenses in searching for a replacement business or [farm.] *farm; and*

(4) actual reasonable expenses necessary to reestablish a displaced nonprofit organization or small business at its new site, but not to exceed $10,000.

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive **[**a moving expense allowance, determined according to a schedule established by the head of the Federal agency, not to exceed $300; and a dislocation allowance of $200.**]** *an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency.*

[(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earning of the business on farm operation, except that such payment shall be not less than $2,500 nor more than $10,000. In the case of a business no payment shall be made under this subsection unless the head of the Federal agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronatge, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such projects, or during such other period as the head of such agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.**]**

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the head of the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than $1,000 nor more than $20,000. A person whose sole business is renting displacement property to others shall not qualify for this payment.

(d) Whenever a program or project undertaken by a displacing agency will result in the displacement of utility or cable television facilities from real property under the ownership or control of a Federal, State, or local agency, the head of the displacing agency may provide a payment to a utility, the amount of which shall be set pursuant to a written agreement between the utility or cable television operation and the Federal, State or local agency, but in no event shall such payment exceed the actual reasonable expenses of

moving such facilities. Nothing in the preceding sentence shall deprive a utility or cable television operation of its rights under State or local law, or require a State or local agency to revise a contract or alter State or local law.

REPLACEMENT HOUSING FOR HOMEOWNER

SEC. 203. (a)(1) In addition to payments otherwise authorized by this title, the head of the [Federal] *displacing* agency shall make an additional payment not in excess of [$15,000] *$22,500* to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) The amount, if any, which when added to the acquisition cost of the dwelling [acquired by the Federal agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market.] *acquired by the displacing agency, equals the reasonable cost of a suitable replacement dwelling.*

[(B) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Federal agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage, on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.]

(B) The amount, if any, which will compensate such person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such suitable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days immediately prior to the initiation of negotiations for the acquisition of such dwelling; and

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including pre-paid expenses.

[(2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives from the Federal agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.]

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which such person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 205 (c) (3) of this Act is met, whichever is later, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a suitable replacement dwelling within one year of such date.

(b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage.

REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

[SEC. 204. In addition to amounts otherwise authorized by this title, the head of the Federal agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 203 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either—

[(1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilties, and reasonably accessible to his place of employment, but not to exceed $4,000, or

[(2) the amount necessary to enable such person to make a downpayment (including incidental expenses described in 203(a)(1)(C) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilties, but not to exceed $4,000, except that if such amount exceeds $2,000, such person must equally match any such amount in excess of $2,000, in making the downpayment.]

SEC. 204. (a) In addition to amounts otherwise authorized by this title, the head of a displacing agency shall make a payment to or for any displace person displaced from any dwelling unit not eligible to receive a payment under section 203 which was actually and lawfully occupied by such displaced person for not less than ninety days immediately prior to the initiation of negotiations for acquisition of such dwelling, or, where displacement is not caused by acquisition, any other event which the head of the lead agency may prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a priod not to exceed three years, a suitable replacement dwelling. For a person whose income exceeds 50 percentum of the median income of the area, as determined by the Secretary of Housing and Urban Development, the amount referred to shall equal the lesser of (i) $4,500 or (ii) 36 times the amount obtained by subtracting the monthly housing costs for the displacement dwelling from the monthly housing costs for a suitable replacement dwelling. At the discretion of the head of the displacing agency, a payment under this subsection may be made in periodic installments.

(b) Any displaced person eligible for payments under subsection (a) of this section may elect to receive in lieu thereof either Federal low income housing assistance or similar State or local governmental assistance if such assistance is available at the time of displacement and such person is otherwise eligible for such assistance. The failure of any such person to make such an election shall be considered when evaluating the eligibility of such person for any Federal or federally assisted low income housing assistance program during the three years following the date on which such person received the payment authorized under subsection (a) of this section.

(c) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. A displaced homeowner who has occupied the displacement dwelling for at least ninety days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling may, at the discretion of the head of the displacing agency, be eligible for the maximum payment allowed under this subsection, provided that such payment shall not exceed the payment such person would otherwise have received under section 203 (a) of this Act had the person occupied the displacement dwelling for 180 days immediately prior to the initiation of such negotiations.

[RELOCATION ASSISTANCE ADVISORY SERVICES]

[SEC. 205. (a) Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after the effective date of this section, the head of such agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection (c) of this section. If such agency head determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.]

[(b) Federal agencies administering programs which may be of assistance to displaced persons covered by this Act shall cooperate to the maximum extent feasible with the Federal or State agency causing the displacement to assure that such displaced persons receive the maximum assistance available to them.]

[(c) Each relocation assistance advisory program required by subsection (a) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

[(1) determine the need, if any, of displaced persons, for relocation assistance;

[(2) provide current and continuing information on the availability, prices, and rentals, or comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced business;

[(3) assure that, within a reasonable period of time, prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by such Federal agency head, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived;

[(4) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

[(5) supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons; and

[(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.]

[(d) The heads of Federal agencies shall coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.]

RELOCATION ASSISTANCE COORDINATION AND ADVISORY SERVICES

SEC. 205. (a) The head of any displacing agency shall assure that the relocation assistance advisory services described in subsection (c) of this section are made available to all persons displaced by such agency. If such agency head determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency head may make available to such person such advisory services.

(b) The Secretary of Housing and Urban Development shall assign a high priority for assistance under the programs referred to in sec-

tions 204(b) and 206(b) of this Act to persons eligible under such sections. To the extent practicable, the Secretary shall require that federally assisted State and local governmental low income housing assistance programs assign priority for assistance to such persons. To the extent practicable, the Administrator of the Small Business Administration and the heads of other Federal agencies administering programs which may be of assistance to displaced persons shall make available technical assistance under subsection (c)(5) of this section and expedite the applications for such assistance by such persons.

(c) Each relocation assistance advisory program required by subsection (a) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

(1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

(2) provide current and continuing information about sales prices and rental charges on suitable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

(3) assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a suitable replacement dwelling;

(4) assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply information concerning other Federal programs which may be of assistance to displaced persons, and technical assistance to such persons in applying for assistance under such programs;

(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation; and

(7) assure that a 180-day homeowner-occupant is given a reasonable opportunity to remain in such occupancy status.

(d) The head of a displacing agency shall coordinate the relocation activities performed by such agency with other Federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

(e) Whenever two or more Federal agencies provide financial assistance to a displacing agency other than a Federal agency, to implement functionally or geographically related activities which will result in the displacement of a person, the heads of such Federal agencies may by agreement designate one such agency as the cognizant Federal agency whose procedures shall be utilized to implement the activities. If such agreement cannot be reached, then the head of the lead agency shall designate one such agency as the cognizant agency. Such related activities constitute a single program or project for purposes of this Act.

HOUSING REPLACEMENT BY FEDERAL AGENCY AT LAST RESORT

[SEC. 206. (a) If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project.]

[(b) No person shall be required to move from his dwelling on or after the effective date of this title, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 205(c)(3), is available to such person.]

SEC. 206. (a) If a program or project undertaken by a Federal agency, or with Federal financial assistance cannot proceed on a timely basis because suitable replacement dwellings are not available, and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The head of the lead agency shall require that this section may be used to exceed the payment ceilings established in sections 203 and 204 only on a case-by-case basis, for good cause.

(b) Whenever housing replacement as a last resort will result in the provision of housing for persons who are otherwise eligible for low income housing assistance, the requirement that the displacing agency provide suitable replacement housing may be met through such assistance as the provision of a certificate of family participation under the existing section 8 housing program pursuant to the United States Housing Act of 1937, as amended (42 U.S.C. 1437f).

STATE REQUIRED TO FURNISH REAL PROPERTY INCIDENT TO FEDERAL ASSISTANCE (LOCAL COOPERATION)

SEC. 207. Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistant and assurances, as are required of a State agency by section 210 and 305 of this Act. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first $25,000 of the cost of providing such payments and assistance.

STATE ACTING AS AGENT FOR FEDERAL PROGRAM

SEC. 208. Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this Act, be deemed an acquisition by the Federal agency having authority over such program or project.

PUBLIC WORKS PROGRAM AND PROJECTS OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SEC. 209. Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 210 and 211 of this title, and such acquisition will result in the displacement of any person on or after the effective date of this Act, the [Commissioner] *Mayor* of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a [Federal] *displacing* agency by this Act. Whenever real property is acquired for such a program or project on or after such effective date, such [Commissioner] *Mayor* of Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by title III of this Act.

[REQUIREMENTS FOR RELOCATION PAYMENTS AND ASSISTANCE OF FEDERALLY ASSISTED PROGRAM: ASSURANCES OF AVAILABILITY OF HOUSING]

[SEC. 210. Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this title, unless he receives satisfactory assurances from such State agency that—

[(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 202, 203, and 204 of this title;

[(2) relocation assistance programs offering the services described in section 205 shall be provided to such displaced persons;

[(3) within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with section 205(c)(3).]

AGENCY CERTIFICATION OF STATE PROGRAMS

SEC. 210. (a) Except as provided in paragraph (b) of this section, the head of a Federal agency shall not approve any grant to or contract or agreement with a displacing agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this title, unless he receives satisfactory assurances from such agency that—

(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 202, 203, and 204 of this title;

(2) relocation assistance programs offering the services described in section 205 of this title shall be provided to such displaced person.

(3) within a reasonable period of time prior to a displacement, suitable replacement dwellings will be available to displaced persons in accordance with section 205(c)(3) of this title.

(b)(1) In lieu of the provisions of subsection (a) of this section, the head of a Federal agency may discharge his responsibilities under this Title and Title I of this Act, with the exception of sections 208 and 211 of this Title, by accepting a certification from a State agency that it will implement State law in a manner which will accomplish the policies and objectives contained in this Title and Title I; Provided: that the head of the lead agency has determined that such State law will accomplish the same purpose and effect as this Title and Title I, particularly with respect to the definition of a displaced person, the categories of assistance required, and the levels of assistance provided to such persons in such categories.

(2) The head of the lead agency shall, in coordination with other federal agencies, monitor from time to time, and report biennially to the Congress on, State agency implementation of such certification, and a State agency shall make available any information required for such purpose. The head of a Federal agency may withdraw his acceptance of the certification for good cause; Provided: that the State government is given due notice prior to taking any such action and is given a reasonable opportunity to demonstrate why such action should not be taken.

(c) Prior to making a determination regarding State law under subsection (b) of this section, the head of the lead agency shall provide interested parties with an opportunity for public review and comment. In particular, the head of the lead agency shall consult with interested local general purpose governments within such States on the impacts of such State laws on the ability of local governments to carry out their responsibilities under the Act.

(d) The head of a Federal agency may withhold his approval of any grant, contract, or cooperative agreement with any displacing agency found to have intentionally circumvented a State law adopted under subsection (b) of this section.

FEDERAL SHARE OF COSTS

SEC. 211. [(a) The cost to a State agency of providing payments and assistance pursuant to sections 206, 210, 215, and 305, shall be included as part of the cost of program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution the Federal agency shall pay the full amount of the first $25,000 of the cost to a State agency of providing payments and assistance for a displaced person under sections 206, 210, 215, and 305, on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Federal agency shall loan such State agency the full amount of the first $25,000 of such cost.]

(a) The cost to a displacing agency of providing payments and assistance pursuant to Titles II and III shall be included as part of the cost of a program or project undertaken by a Federal agency or with Federal financial assistance. A displacing agency, other than a Federal agency, shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program costs.

(b) No payment or assistance under section 210 or 305 shall be required or included as a program or project cost under this section, if the displaced person receives a payment required by [the State law of eminent domain which is determined by such Federal agency head to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available.] *State law which is determined by the head of the lead agency to have substantially the same purpose and effect of such payment under this section.*

(c) Any grant to, or contract or agreement with, a State agency executed before the effective date of this title, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this Act, shall be amended to include the cost of providing payments and services under sections 210 and 305. If the head of a Federal agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to sections 206, 210, 215, and 305.

[ADMINISTRATION—RELOCATION ASSISTANCE IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE]

[Sec. 212. In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under sections 206, 210, and 215 of this title, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this title through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 206, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.]

ADMINISTRATION

Sec. 212. (a) A displacing agency shall prevent unnecessary expenses, duplications of functions, and Government competition under this Act and promote the efficient and effective delivery of relocation assistance services by carrying out such functions through *any governmental instrumentality having an established organization for delivering such services, or any individual, firm, corporation, or association.*

(b) The use of private sector delivery systems shall, whenever feasible, incorporate competition among alternative service providers in order to minimize costs.

[REGULATIONS AND PROCEDURES]

[SEC. 213. (a) In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall consult together on the establishment of regulations and procedures for the implementation of such programs.]

[(b) The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure—

[(1) that the payments and assistance authorized by this Act shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

[(2) that a displaced person who makes proper application for a payment authorized for such person by this title shall be paid promptly after a move or, in hardship cases, be paid in advance; and

[(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this Act, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

[(c) The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this Act, as he deems necessary or appropriate to carry out this Act.]

REGULATION

SEC. 213. (a) The President shall designate a lead agency.

(b) The head of the lead agency shall—

(1) develop, publish, and promulgate, with the active participation of other Federal agencies responsible for funding relocation and acquisition actions, and in full coordination with State and local government, such rules as may be necessary to carry out this Act;

(2) assure that relocation assistance activities under this Act are coordinated with low-income housing assistance programs or projects by a Federal agency, or a State or State agency with Federal financial assistance;

(3) monitor, in coordination with other Federal agencies, the implementation and enforcement of this Act and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this Act; and

(4) perform other duties as may be provided by law as relate to the purposes of this Act.

(c) The rules promulgated pursuant to subsection (b) shall apply to the Tennessee Valley Authority only with respect to relocation assistance under this title and title I.

[ANNUAL REPORT]

[SEC. 214. The head of each Federal agency shall prepare and submit an annual report to the President on the activities of such agency with respect to the programs and policies established or authorized by this Act, and the President shall submit such reports to the Congress not later than January 15 of each year, beginning January 15, 1972, and ending January 15, 1975, together with his comments or recommendations. Such reports shall give special attention to:

[(1) the effectiveness of the provisions of this Act assuring the availability of comparable replacement housing, which is decent, safe, and sanitary, for displaced homeowners and tenants;

[(2) actions taken by the agency to achieve the objective of the policies of Congress, declared in this Act, to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by, or having real property taken for, Federal or federally assisted programs;

[(3) the views of the Federal agency head on the progress made to achieve such objectives in the various programs conducted or administered by such agency, and among the Federal agencies;

[(4) any indicated effects of such programs and policies on the public; and

[(5) any recommendations he may have for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws and regulations.]

SEC. 214. Repealed.

[PLANNING AND OTHER PRELIMINARY EXPENSES FOR ADDITIONAL HOUSING]

[SEC. 215. In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such project receiving Federal financial assistance, to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts.]

SEC. 215. Repealed.

PAYMENTS NOT TO BE CONSIDERED AS INCOME

SEC. 216. No payment received under this title shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

[DISPLACEMENT BY CODE ENFORCEMENT, REHABILITATION, AND DEMOLITION PROGRAMS RECEIVING FEDERAL ASSISTANCE]

[SEC. 217. A person who moves or discontinues his business, or moves other personal property, or moves from his dwelling on or after the effective date of this Act, as a direct result of any project or program which receives Federal financial assistance under title I of the Housing Act of 1949, as amended, or as a result of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall, for the purposes of this title, be deemed to have been displaced as the result of the acquisition of real property.]

SEC. 217. Repealed.

TRANSFERS OF SURPLUS PROPERTY

SEC. 218. The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this title, any real property surplus to the needs of the United States within the meaning of the Federal Property and Administrative Services Act of 1949, as amended. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States [all amounts received] *all net amounts received* by such agency from any sale, lease, or other disposition of such property for such housing.

[DISPLACEMENT BY A SPECIFIC PROGRAM]

[SEC. 219. Notwithstanding any other provision of this title, a person—

[(1) who moves or discontinues his business, moves other personal property, or moves from his dwelling on or after January 1, 1969, and before the 90th day after the date of enactment of this Act as the result of the contemplated demolition of structures or the construction of improvements on real property acquired, in whole or in part, by a Federal agency within the area in New York, New York, bounded by Lexington and Third Avenues and 31st and 32nd Streets; and

[(2) who had lived on, or conducted a business on, such real property for at least one year prior to the date of enactment of this Act; may be considered a displaced person for purposes of section 202 (a) and (b), 204, and 205 of this title, by the head of the agency acquiring the real property if—

[(A) the head of the agency determines that such person has suffered undue hardship as the result of displacement from the real property; and

[(B) the Federal Government acquired and held such property for at least five years prior to the date of enactment of this Act.]

SEC. 219. Repealed.

REPEALS

SEC. 220. (a) The following laws and parts of laws are hereby repealed:

(1) The Act entitled "An Act to authorize the Secretary of the Interior to reimburse owners of lands required for development under his jurisdiction for their moving expenses, and for other purposes," approved May 29, 1958 (43 U.S.C. 1231-1234).

(2) Paragraph 14 of section 203(b) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473).

(3) Section 2680 of title 10, United States Code.

(4) Section 7(b) of the Urban Mass Transportation Act of 1965 (49 U.S.C. 1606(b)).

(5) Section 114 of the Housing Act of 1949 (42 U.S.C. 1465).

(6) Paragraphs 7(b)(iii) and (8) of section 15 of the United States Housing Act of 1937 (42 U.S.C. 1415, 1415(8)), except the first sentence of paragraph (8).

(7) Section 2 of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to pay relocation costs made necessary by actions of the District of Columbia government, and for other purposes", approved October 6, 1964 (78 Stat. 1004; Public Law 88-629; D.C. Code 5-729).

(8) Section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074).

(9) Sections 107(b) and (c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3307).

(10) Chapter 5 of title 23, United States Code.

(11) Sections 32 and 33 of the Federal-Aid Highway Act of 1968 (Public Law 90–495).

(b) Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions thereof under subsection (a) of this section.

EFFECTIVE DATE

SEC. 221. (a) Except as provided in subsections (b) and (c) of this section, this Act and the amendments made by this Act shall take effect on the date of its enactment.

(b) Until July 1, 1972, sections 210 and 305 shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections shall be completely applicable to all States.

(c) The repeals made by paragraphs (4), (5), (6), (8), (10), (11), and (12) of section 220(a) of this title and section 306 of title III shall not apply to any State so long as sections 210 and 305 are not applicable in such State.

TITLE III—UNIFORM REAL PROPERTY ACQUISITION POLICY

UNIFORM POLICY ON REAL PROPERTY ACQUISITION PRACTICES

SEC. 301. In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property [.] *except that the head of the lead agency may prescribe a procedure which foregoes the appraisal.*

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall established an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement of, and sum-

mary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 1 of the Act of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258(a), for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by title II will be available), or to move his business or farm operation, without at least ninety days' written notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make its necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

[(9) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire the entire property.]

(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the acquiring agency shall offer to acquire that remnant. For the purposes of this Act, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the acquiring agency has determined has little or no value or utility to the owner.

(10) A person whose real property is being acquired in connection with a project under this Title may, after the person has been fully informed of his right to receive just compensation of such property, donate such property, any part thereof, any inter-

est therein, or any compensation paid therefor to an acquiring agency, as said person shall determine.

BUILDINGS, STRUCTURES, AND IMPROVEMENTS

SEC. 310. (a) Notwithstanding any other provision of law, if the head of a Federal agency acquires any interest in real property in any State, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.

(b)(1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (a) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be to the tenant therefor.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection.

EXPENSES INCIDENTAL TO TRANSFER OF TITLE TO UNITED STATES

SEC. 303. The head of a Federal agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

(1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;

(2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) the pro rata portion of real property taxes paid which are allocable to a period subseqent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

LITIGATION EXPENSES

SEC. 304. (a) The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including resonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if—

(1) the final judgment is that the Federal agency cannot acquire the real property by condemnation; or

(2) the proceeding is abandoned by the United States.

(b) Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, United States Code, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

[REQUIREMENTS FOR UNIFORM LAND ACQUISITION POLICIES: PAYMENTS OF EXPENSES INCIDENTAL TO TRANSFER OF REAL PROPERTY TO STATE: PAYMENT OF LITIGATION EXPENSES IN CERTAIN CASES]

[SEC. 305. Notwithstanding any other law, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date of this title, unless he receives satisfactory assurances from such State gency that—

[(1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 301 and the provisions of section 302, and

[(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304.]

AGENCY CERTIFICATION OF STATE PROGRAMS

SEC. 305. (a) Except as provided in paragraph (b) of this section, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, an acquiring agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on or after the effective date of this title, unless he receives satisfactory assurances that—

(1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition poli-

cies under section 301 of this title and the provisions of section 302 of this title; and

(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 of this title.

(b)(1) In lieu of the provisions of subsection (a) of this section, the head of a Federal agency may discharge his responsibilities under this Title by accepting a certification from a State agency that it will implement State law in a manner which will accomplish the policies and objectives contained in this Title; Provided: That the head of the lead agency has determined that such State law will accomplish the same purpose and effect as this Title.

(2) The head of the lead agency in coordination with other federal agencies shall from time to time monitor State agency implementation of such certification and the state agency shall make available any information required for such purpose. The head of the lead agency shall by regulation develop criteria for withdrawal of acceptance of a certification.

(c) Prior to making a determination regarding state law under subsection (b) of this section, the head of the lead agency shall consult with interested local general purpose governments within such States on the impacts of such state laws on the ability of local govermnents to carry out their responsibilities under this Act.

REPEALS

SEC. 306. Sections 401, 402, and 403 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3071–3073), section 35(a) of the Federal-Aid Highway Act of 1968 (23 U.S.C. 141) and section 301 of the Land Acquisition Policy Act of 1960 (33 U.S.C. 596) are hereby repealed. Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Act or portions thereof under this section.

TITLE IV—EFFECTIVE DATE

SEC. 401. The provisions and amendments made by this Act shall take effect twelve months from the date of the enactment of this Act, except that section 213, of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and section 401 of this Act shall take effect on the date of enactment of this Act.

ADDITIONAL VIEWS OF SENATORS DURENBERGER, SASSER, LEVIN, STEVENS, COCHRAN, AND NUNN

Since the reporting of this legislation by the Committee on Governmental Affairs, the Subcommittee on Intergovernmental Relations has engaged in intensive negotiations with the utility industry, Federal agencies, and the intergovernmental community to develop a utility relocation policy which is acceptable to all affected parties. A set of floor amendments reflecting such a consensus has been developed. However, the accompanying section-by-section analysis of these amendments constitutes an essential element in this package. Accordingly, we have included this section-by-section analysis here with the intent that it shall supplement the text in the main body of this report which is in reference to the eligibility of a utility for a relocation payment:

The committee has added two new subsections, (d) and (e), to clarify the rights of a utility as a "displaced person" when a Federal or federally assisted program or project results in the displacement of the utility from property under the ownership or control of a State or local government. The subsections are designed to reflect the current relocation practices of the Federal, State, and local agencies covered under this act, but they will be binding only on relocations which take place after the effective date of this statute. The committee contemplates that the head of the lead agency will develop standards for the implementation of these subsections which neither increase directly, nor decrease, the amount of utility relocation assistance provided under Federal or federally assisted programs or projects.

Subsection (d) addresses the case where a State or local agency, assisted by Federal funds, undertakes any activity which will result in the displacement of a utility from State or local property. The subsection essentially provides that, subject to certain restrictions, Federal granting agencies shall regard any payment due the utility under State or local law or a contract, if any, as an eligible project cost; although, in no event is it intended that the Federal agency, or a Federal court, shall substitute its judgment for that of a competent interpreter of State or local law.

Subsection (e) is designed to apply only in the case where an agency having Federal powers of eminent domain directly acquires State or local property, thereby displacing a utility. In such cases, as distinct from those covered under subsection (d), the acquiring agency has the power to force the sale (or vacation) of the property. Such acquisitions do not differ materially from the eminent domain-supported acquisition (that is, involving the use, or threat, of condemnation) or private property. It is the committee's view that persons displaced by eminent domain-supported acquisition of private or public property are entitled to the full benefits under title II. Subsection (e) requires that the full cost of relocating an eligible utility be borne by the Federal displacing agency.

It is just such a distinction that the committee believes the Fourth Circuit Court of Appeals failed to apply in the case, *C&P Telephone* v. *Norfolk Housing and Redevelopment Authority, et al, (Norfolk).* In *Norfolk* the court held that the acquisition triggering C&P's displacement occurred when NHRA, a State agency, used Federal funds to acquire the private property abutting the city of Norfolk's easement, which C&P's transmission lines occupied. When NHRA subsequently ordered C&P to vacate the property following the city's closing of the street, C&P became, in the court's eyes, a displaced person, eligible for a relocation payment under this section. The ruling overlooked, however, the question of whether NHRA could have forced the city to vacate its duly acquired easement. Assuming it could not (NHRA's eminent domain powers being the same as the city's), the transfer of control over the property between the city and NHRA constituted an unencumbered transaction on the open market. The committee observes that only acquisitions which are supported by eminent domain are presently covered under the act.

The new subsection 202(d) is intended to provide uniform treatment to utilities that are located in a public right-of-way and are required to relocate because of a federally assisted State or local project. This uniform treatment would apply only to utilities displaced after the effective date of this statute. It does not change State or local law or existing contracts, but it guarantees that State or local decisions to pay for the relocation of utilities will be eligible for Federal funding. The State and local decisions necessarily involve a balancing of the interests involved. On the one hand, utilities are often permitted in public streets rent free and because of this special status, utilities have generally accepted the responsibility to relocate their facilities at their own expense (except where negotiated agreements stipulate otherwise). On the other hand, relocation is often not the choice of the utility and unreimbursed costs must be absorbed by the utility and ultimately, its ratepayers. Recently, for example, a New York utility was forced to absorb $6 million in relocation costs, which were subsequently passed on in the form of higher gas bills to the utility's customers—30 percent of whom have incomes below the poverty level.

The approach taken in this subsection is similar to that which governs the Federal-aid highway programs. Section 123 of title 23, United States Code, insures that the Federal Government will treat utility relocation payments as eligible projects costs to the same extent as they are required under State and local law. This program successfully provided over $260 million of utility relocation payments during 1982.

Subsection (d)(1) defines the cost of relocation in language similar to title 23, United States Code, section 123. "Betterments" means any upgrading to the utility made solely for the benefit of, and at the election of, the utility company. The definition of utility is expansive and is designed to include all types of utilities and other occupants of the public right-of-way. It is recognized, for example, that cable television companies and certain transportation systems are not utilities as the term is used elsewhere. Such entities are included in the definition under this subsection solely as a matter of convenience in drafting.

Subsection (d)(2) is the basic operable part of the subsection and it applies unless there are other Federal statutes, such as title 23, United States Code, section 123, that provide specific guidance for a Federal program. Subject to the other requirements of this subsection, this paragraph provides that the State or local displacing agency shall pay the amount, if any, to the utility that is determined to be due under State or local law or a written contract. The actual reasonable cost of relocation is the upper limit on the payment. Costs would be eligible under section 211(a) of the act only if the costs were actual expenses to the State or local government.

With respect to the phrase, "* * * shall provide payment to the utility company pursuant to State or local law * * *", the committee recognizes that State and local governments already must comply with their own laws, and intends to create neither additional State and local obligations, nor new enforcement burdens for the Federal Government. The absence of discretion under the subsection is intended solely to insure that Federal granting agencies shall treat as eligible costs (under section 211(a)) any payment required of a State or local government under its own law. The committee expressly intends that the ostensible obligation created under the subsection for a State or local government to comply with its law shall not be reviewable in a Federal court.

Subsection (d)(3) preserves the status quo for the State or local agency. Nothing in this subsection is designed to force revisions in State or local law or existing contracts or require a payment to be made where none is due under State or local law or a written contract. Similarly, subsection (d)(4) preserves the status quo for the utility. Nothing in the subsection is designed to deprive a utility of any rights that it might have under State or local law.

Subsection (d)(5) is designed to prevent abuses of Federal funding. The Federal Government should take contracts "as it finds them" and not permit windfall payments to utilities. However, the committee does not intend to preclude a payment over and above the amount required under a State or local law or a prior contract in projects involving extraordinary utility relocation costs. It is recognized that ordinary, routine relocation costs resulting from, say, sewer maintenance can and often should be equitably borne by the utility in lieu of rent for use of the public right of way. On the other hand, large-scale public projects can involve utility relocation costs in the millions of dollars, and result in considerable rate increases for utility ratepayers. If the negotiation of additional compensation pursuant to such large-scale projects is not prohibited by State or local law or a written contract, the committee envisions that Federal granting agencies could agree to participate in the negotiated payment subject to the requirements of paragraph (6).

Subsection (d)(6) is included to insure equality of treatment. The provision is designed to preserve the discretion of the head of the involved Federal agency with respect to the Federal Government's participation in a utility relocation payment which exceeds the amount that a State or local agency would pay if there were no

Federal funds involved. Ideally, a State or local decision to fund relocation costs should be based on a general principle and not on a strategy to maximize Federal payment.

Subsection (d)(7) is designed to prevent the creation of any additional right of a utility or its ratepayers to sue in Federal court with respect to either the enforcement of a State or local law or contract, or the level of compensation awarded under such laws or contracts. The intent is to provide clear, but nonreviewable, policy guidance to Federal agencies to coordinate their relocation policies to the fullest extent possible under this subsection with those of State and local governments.

The committee recognizes the concern of some utilities that paragraph (7) might alter existing rights not arising out of this subsection. However, it is not the committee's intent to preclude Federal court consideration of existing statutory and constitutional rights outside the provisions of this subsection or to unconstitutionally restrict the jurisdiction of the Supreme Court. It is not intended, for example, that the paragraph free State and local authorities, in their decisions to award or not award compensation under this subsection, from the enforcement of due process, civil rights, or other Federal rights in Federal court. Rather, the provision should be interpreted narrowly to limit Federal court review only with respect to the requirements established in this subsection. In adopting this approach, the committee has attempted to balance the utility's desire that the policy guidance under this subsection be clear and unequivocal with the more fundamental concern of State and local governments that the Federal courts not be accorded a new role in enforcing or otherwise adjudicating State or local law.

A new subsection (e) is intended to provide uniform treatment to utilities who are located on a State or local right-of-way and are required to relocate due to the acquisition of such property by an agency having Federal power of eminent domain. It clarifies the requirement that a Federal agency shall reimburse an eligible utility for its full cost of relocation. The subsection is intended to govern Federal utility relocation policy except where other Federal law (such as 23 U.S.C. 123 or 30 U.S.C. 181 et seq.) regulations issued by a Federal agency before March 17, 1983 (the date on which the committee reported the legislation), or a contract between the displaced utility and the Federal agency provides otherwise. For example, the committee contemplates that any land exchange pursuant to the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) would not constitute an acquisition for the purposes of this subsection.

The committee recognizes the concern of utilities which hold permits to have their transmission lines and other facilities cross navigable waterways that the phrase, "Such payment shall not be required when provided otherwise by a * * * contract or agreement * * * would compromise their existing rights to compensation in cases where a project undertaken by the U.S. Army Corps of Engineers is not wholly for the purpose of futhering navigational safety. The committee does not intend that anything in this provision deprive a utility of such existing rights, nor is it the intent to deprive a utility of any real property interest that it may hold in the displacement property.

Dave Durenberger.
Jim Sasser.
Carl Levin.
Ted Stevens.
Thad Cochran.
Sam Nunn.

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